

**2014-2015 Report on Police Violence
in the Umbrella Movement**



A report of the State Violence Database Project in Hong Kong

Compiled by
The Professional Commons and Hong Kong In-Media

Table of Contents

About us

About the research

Maps / Glossary

Executive Summary

1.	Report on physical injury and mental trauma.....	13
1.1	Physical injury.....	13
1.1.1	Injury caused by police’s direct smacking, beating and disperse actions.....	14
1.1.2	Excessive use of force during the arrest process.....	24
1.1.3	Connivance at violence, causing injury to many	28
1.1.4	Delay of rescue and assault on medical volunteers	33
1.1.5	Police’s use of violence or connivance at violence against journalists.....	35
1.2	Psychological trauma.....	39
1.2.1	Psychological trauma caused by use of tear gas by the police.....	39
1.2.2	Psychological trauma resulting from violence.....	41
1.2.3	Figures on the traumatized	42
1.3	Sexual violence	42
1.3.1	Personal experience of sexual violence during the Occupy Movement.....	43
1.3.2	Witnesses of sexual violence during the Occupy Movement.....	45
2.	Report on complaints regarding power abuse by police.....	46
2.1	Excessive use of force by police	48
2.1.1	Use of tear gas grenades	48
2.1.2	Incidents and level of force used by police	50
2.1.3	Leaking information about police armoury to intimidate protesters.....	54
2.2	Stop and check for identity card; body search; showing police warrant card.....	56
2.3	Excessive arrests.....	62
2.3.1	Arrests directly related to the Movement.....	65
2.3.2	Other related charges.....	67
2.3.3	Defective arrest process	69
2.3.4	Discriminatory law enforcement.....	70

2.4	Expelling medical volunteers and journalists from the scene	71
2.5	Obstructing protest processions and assemblies; other improper behaviours	74
2.5.1	Obstructing protest activities	75
2.5.2	Other improper behaviours.....	77
2.6	Inappropriate prosecutions.....	81
2.6.1	Excessive use of force by police; prosecutions and trials.....	83
2.6.2	Prosecution cases instituted by police	84
3.	Conclusion	100
	Summary of Events	103

About us

The abuse of force by the police against citizens in the Umbrella Movement was certainly not accidental but carried out under the direction or tacit consent of the authority. Besides tear gas grenades, pepper spray, batons, water cannons and physical violence like beating and kicking, there was also institutional abuse by way of arbitrarily setting up blockades, checking and recording identity of protesters with the effect of creating white terror, and excessively deploying legal proceedings to limit human liberty.

We have set up the State Violence website and the Police Violence Database in Umbrella Movement (under construction). Truthful facts, based on objective evidence collated rigorously and impartially, are presented to raise public awareness, with a view to avoiding further abuse of power and degeneration of Hong Kong into a police state. Information in our database is collected in a comprehensive, objective and rigorous manner. Online forms have been designed for citizens to report on power abuse and violence by the police, and injuries inflicted during police operations in the Umbrella Movement. Details of events, nature and extent of injury and reasons for injury are among the information gathered.

Police violence is often understated by government officials as a kind of unavoidable damage incurred in the course of police operations. Yet, violence perpetrated by a government regime is in essence an infringement of human rights. Infringing the right of one individual amounts to infringing the civic rights of all in society. Serious attention should therefore be given to each individual case. Along with our supporting organizations, we strive to actively follow up cases of police violence at both the local and international levels, making our forum an effective means for safeguarding civic rights in the democratization process of Hong Kong.

LAI Kwong-tak, Albert, The Professional Commons

“If anyone has been subjected to any kind of power abuse or violence by the police, information can be provided to us, in such form as self-testimony, photo or video, or testimony by third-party. We will arrange professional social workers or psychotherapists to conduct face-to-face interviews. Truthfulness of information will be ascertained. Psychological counselling or legal assistance will be provided if needed. The wish of the victim will be respected in determining whether his or her name is to be disclosed.”

LEUNG Kai-cheong, Kenneth, Member of the Legislative Council

“The government should make it a priority to reveal to the public procedures and guidelines for regulating police power in an open and transparent manner. Legal basis for police operations and procedures should be clearly spelt out. The existing system for handling complaints on the police should also be improved.”

Organizers

The Professional Commons
www.procommons.org.hk

Hong Kong In-Media
www.inmediahk.net

Supporting organizations

Hong Kong Shield
Civil Human Rights Front
Hong Kong Civil Rights Observer
Psycho-Art Therapy Association

Contact us

www.facebook.com/policeviolencedb
stateviolencehk@gmail.com

9/F Foo Tak Building,
365 Hennessy Road,
Wanchai, Hong Kong

About this research

Data and cases cited in this research have been obtained by following up news reports, interviewing injured persons and conducting enquiries with relevant civil groups and organizations. Sources include:

- Wisenews from 22 September 2014 to 12 June 2015;
- Reports by inmediahk.net from 22 September 2014 to 1 June 2015;
- Interviews with organizations such as Hong Kong Women Workers' Association; and
- 23 injury cases and 5 cases that can be disclosed collated by State Violence.

Consent and written confirmation of the parties concerned have been obtained for all published cases.

Research team members :

The Professional Commons

LAI Kwong-tak, Albert

Hong Kong In-Media

WONG Chun-pong, Damon

CHAN King-Yan, Kristine

Hotline for Sexual Violence in the Umbrella Movement

NG Cheuk-ling

The organisers would like to acknowledge the following volunteers who have, among other unnamed professionals, provided tremendous help in the translation, editing, design layout and IT support for this report:

Translators

CHAN Shu-hon

Julie CHIU

Priscilla CHIU

Ringo LI

Dingdong MA

Anan TAM

Saikung Umbrella

Betty YEUNG

Design

Office of Yan Kallen

Maps / Glossary

The three occupied areas as in end – October 2014: Mongkok, Admiralty, Causeway Bay

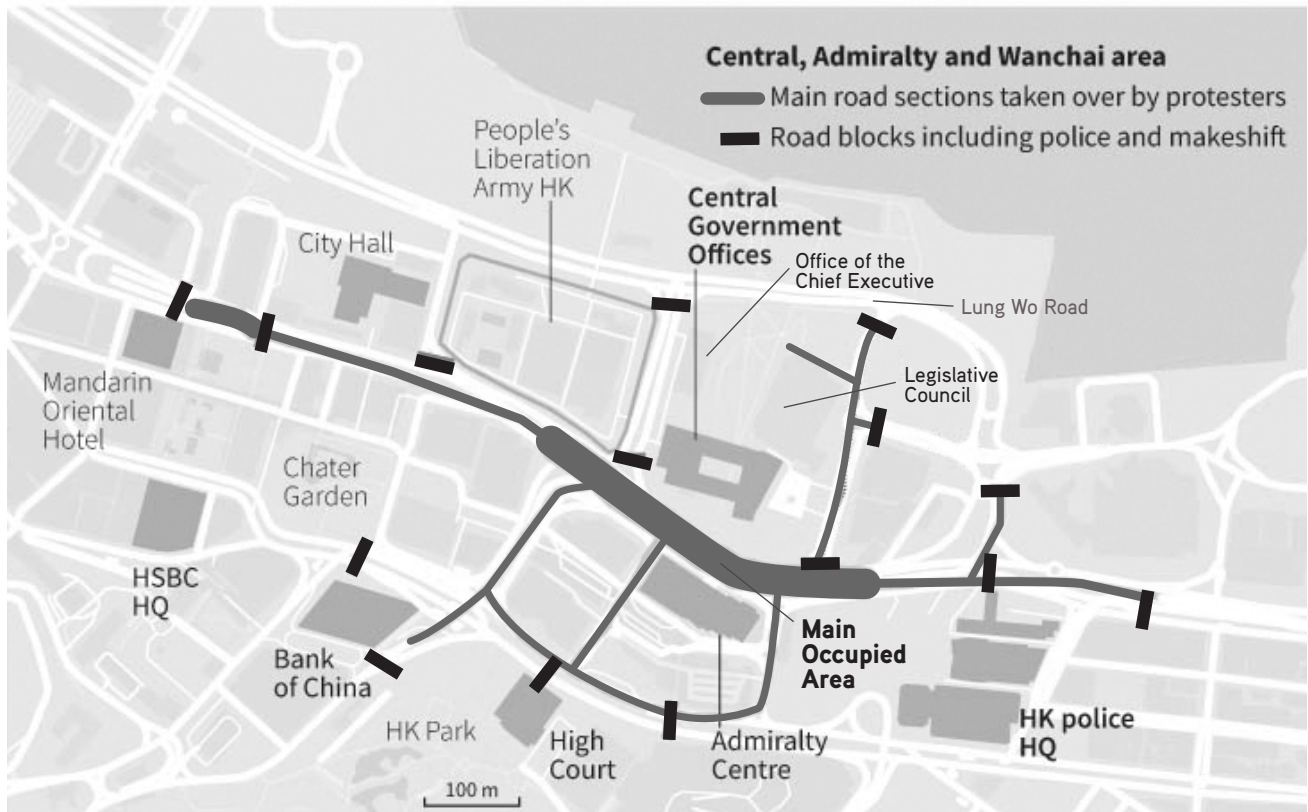
Source: AFP



AFP

Map of Main Protest Area, Tamar, Admiralty

Source: AFP



Glossary:

- Umbrella Movement and Occupy Movement are equivalent terms for the movement referred to in this report.
- Hong Kong Federation of Students – a student organization formed by the student unions of higher institutions in Hong Kong.
- Scholarism – a pro-democracy student activist group consisting primarily of young students at the secondary school or pre-university level.
- Dark police or dark cops – a local nickname for police officers thought to have ill deeds or connections with gangsters.
- Gau Wu – a form of protest by walking and staying on the road with the excuse of going shopping.
- Letter of no objection – a letter issued by the Hong Kong Police to express that they have no objection to the holding of a public meeting or procession which is required by law to give notice to the Police.

Executive Summary

This report gives an overall account of the injuries inflicted on citizens and power abuse by the police, when the latter dealt with public meetings or rallies during the entire period of the Umbrella Movement of Hong Kong, from 26 September to 15 December 2014. The research team examined in detail all publicly available information from the government, relevant organizations and media reports on the subject as well as cases submitted by citizens to this database. Detailed analysis was conducted, based on which this report is compiled. Information in some area is incomplete and estimation had to be made to arrive at certain figures.

During the Umbrella Movement in 2014, the police applied force many times to drive away protesters, causing injuries or mental trauma. Moreover, some citizens were subjected to threats of sexual violence. Conservative estimates put the total number of people injured, physically or mentally, at slightly above 2000*. Actual figures are likely to be considerably higher. A breakdown into broad categories is given below.

Type of Injury	Physical Violence	Mental Trauma	Sexual Violence	Total Injured
No. of persons	Casualties : 1334 of whom: -taken to hospital: 528 -journalists : 30	707	26	<u>2067</u>*

*The method of estimating the number of physically injured persons has not taken into account certain unrecorded cases: (a) those injured who were treated not by the Red Cross which served one major protest area but by other voluntary medical aid workers serving in the same area or other protest areas; and (b) those injured who did not seek immediate medical assistance in the protest areas or in public hospitals.

Apart from the scale of problem in terms of the number of casualties, also noteworthy were the conditions under which many cases occurred: police assaulting defenseless citizens who were not engaged in any provocative behaviour, even when they were following instruction to leave the scene, or in some cases already subdued by the police.

Evidence gathered from the Umbrella Movement points to suspected power abuse by the police, causing substantive threats to civic rights, personal safety and press freedom. The types of abuse can be grouped into six categories, with details as follows:

Type of power abuse by police	Statutory requirements	Actual situation
(1) Excessive force	<ul style="list-style-type: none"> • Criminal Procedure Ordinances, s101A • Police Force Ordinance, s50(2) • Use minimum force 	<ul style="list-style-type: none"> • Relevant guidelines not disclosed; guidelines concerning police discretion not known to the public • 87 tear gas grenades used on 28 September • Many instances of connivance at violence • Many instances of life-threatening brutality, such as striking protesters on the head with police batons • Actual number of incidents in the use of force by police far exceeds that that shown on official records • Repeated leakage of information about police deployment of powerful armory, in a bid to intimidate protesters
(2) Abusing the power to stop and question, make record of identity cards and conduct body search; failure to show police warrant card	<ul style="list-style-type: none"> • Police Force Ordinance, s54 	<ul style="list-style-type: none"> • Rate of crime investigation in identity checks : 1.067% • Abusive demand on Occupy Movement participants to produce identity cards and to provide information about their personal background • Suspected to provide information to mainland immigration authorities, restricting freedom of movement
(3) Excessive arrests	<ul style="list-style-type: none"> • Police Force Ordinance, s50 • Convention on the Rights of the Child, Article 37(b) 	<ul style="list-style-type: none"> • 955 people arrested • Rate of prosecution: 5.03% • 23 people “asked to meet” by police • Selectivity law enforcement

<p>(4) Expelling medical volunteers and journalists from the scene</p>	<ul style="list-style-type: none"> • International Covenant on Civil and Political Rights, Article 19 • General Comment No. 34 on the above article, para. 40-46 	<ul style="list-style-type: none"> • Reporting by journalists was obstructed • At least 30 reporters were injured; 3 reporters prosecuted • Attacked and expelled medical volunteers
<p>(5) Misdeeds by police officers; obstructing rallying by citizens</p>	<ul style="list-style-type: none"> • Police General Orders, Chapter 6 • Police (Discipline) Regulations 	<ul style="list-style-type: none"> • Numerous restrictions imposed on public events • Accepted financial assistance of \$10 million • Involved in political activities • Loss of emotional control; improper behavior
<p>(6) Excessive prosecutions</p>	<ul style="list-style-type: none"> ▪ Prosecution Code 	<ul style="list-style-type: none"> • Of the 32 cases with verdict, 11 were convicted • Conviction rate of 34%, considerably lower than past figures (70% in 2011)

* Apart from the Police Force Ordinance, law enforcement bodies should also consider relevant human rights regulations including, but are not limited to, Articles 27, 28, 30 and 39 of the Basic Law; Articles 16, 17 and 18 of the Bill of Rights; and Articles 21 and 22 of the International Covenant on Civil and Political Rights – United Nations.

Some citizens are not prepared to lodge complaints against the police for power abuse or are not knowledgeable about their own rights. Relevant information is scattered and complex. Hence some of the statistics concerning power abuse by police are incomplete. Nonetheless it is reckoned that the situation was grave, with many more citizens subjected to power abuse than the number of people injured (the latter conservatively estimated to be at least 2000).

As revealed in this report, the police's handling of large-scale mass activities targeted at the government has the following institutional defects:

- Defect 1 :** Propensity for using force – the principle of using minimum force was not adhered to in carrying out duties ;
- Defect 2 :** Giving vent to emotions and taking vengeance – police officers took advantage of opportunities to use force for venting discontent against anti-government protesters, and deliberately made things difficult for the latter by exploiting the bureaucratic institutions.
- Defect 3 :** Mindset of getting away with it – improper force was exercised covertly or in circumstances where the victim could hardly seek redress of grievance.

The problems listed above are not confined to individual police officers. They were prevalent among parts of the police teams carrying out duties during the Umbrella Movement. Hence, they are “institutional defects” that can only be rectified through internal reforms and a change of culture in the police force.

In view of the above, we urge the authorities concerned to adopt the following remedial measures expeditiously:

1. We urge Mr. LO Wai-chung, Stephen, Commissioner of Police, to make drastic reforms in the institutions and the culture of the police force. We also urge him to disclose the guidelines on the use of force by police and related documents.
2. We urge the Legislative Council to use its powers under “Legislative Council (Powers and Privileges) Ordinance to set up an independent investigation committee. The committee is to investigate the ways in which the police handled the situations during the Umbrella Movement.
3. We urge the Hong Kong SAR government to provide a detailed report to the United Nations Committee Against Torture, responding to the accusations of infringing civil rights and suspected abuse of power by the police mentioned in this report.

We will submit this report to the United Nations Committee Against Torture, for UN's reference and record. If the government does not actively respond to the demands and the contents of this report, we urge the community at large to work together to formulate guidelines on police enforcement of laws in relation to public events. We also urge the community to push forward an agenda for reforming the police force.

1. Report on physical injury and mental trauma

1.1 Physical injury

During the whole period of Occupy Movement, at least 528 persons were taken to hospital. With reference to a hospital admission ratio (to be explained later), it is conservatively estimated that the number of injured should be at least 1334. Incomplete figures (only up to late October 2014) show that at least 28 people suffered from head injuries. Furthermore, 707 people suffered mental trauma and at least 20 were subjected to sexual violence. Casualty figures were unprecedentedly high and significant damage was inflicted on the community. There were also serious problems of power abuse by the police, including obstructing protest processions, excessive arrests, collecting personal information about protesters, and hindering journalistic work and rescue efforts of medical volunteers. The number of complaints was as high as 1959, yet merely 21 cases were taken up by police for investigation.

Number of people physically injured during the Umbrella Movement:

No. of injured persons taken to hospitals	No. of people with head or life-threatening injury	No. of reporters injured	Estimated total number of persons physically injured (whether or not they were taken to hospital)
528	28 (up to 20 October 2014)	30	<u>1334</u>

Figures from the Hospital Authority indicated that 298 persons involved in the Occupy Movement sought treatment at accident and emergency departments (A&E) of hospitals from 26 September to 20 October. Cumulative total rose to 528 by the end of December. On 11 December, the police claimed that minimum force such as tear gas and pepper sprays were used and that around 500 persons injured in such operations sought assistance at A&E.¹ The Food and Health Bureau put the number of injured at 518. On 15 December, police said they had assisted 221 protesters in getting medical treatment.

Estimation of the total number of injured persons:

In estimating the total number of persons who were physically injured, we have made reference to the situation during the period 28 - 30 September, when cases of injury occurred mainly in Admiralty. The number of injured people recorded by the Red Cross was 142 while the number taken to hospitals, as recorded by the Hospital Authority, was 93. From these figures, it can be derived that the ratio of injured persons to those taken to hospital was 2.53. A total of 528 persons were taken to hospital during the whole Occupy Movement. By applying the aforesaid ratio, the total number of injured people is estimated to be 1334. (This ballpark

¹ "Over 600 people arrested in the 2.5 months of Occupy Movement; 1044 complaint cases of police abusing power", A14, *Sing Tao Daily*, 12 December 2014.

estimate is, however, likely to be an underestimation. Red Cross handled only some of the injured persons. Others might have sought treatment elsewhere, including the first aid booths set up by medical volunteers.)

Figures regarding head injury

Up to 20 October 2014, 28 people in the Occupy Movement were taken to hospital for head injury. Among them, 4 had to remain in hospital under observation for temporary loss of consciousness or orthopaedic bruises. Major clashes occurred also in November. There are grounds to believe that the total number of head injury in the Occupy Movement is considerably higher than the above figure.

Figures regarding assault on journalists :

The Hong Kong Journalists Association stated in March 2015 that it had received reports on 30 cases of varying degree of violence inflicted on media workers during the Occupy Movement.² By the end of November, unions of media workers had received 25 complaint cases involving violence on their members. The unions concerned had consultation meetings with the police, but little improvement was observed.

The following sections provide details on (1) injury directly caused by police smacking, beating and disperse actions; (2) excessive use of force during the arrest process; (3) connivance at violence, causing injury to many; (4) delay of rescue and assault on medical volunteers; and (5) use of or connivance at violence against journalists.

1.1.1 Injury caused by police's direct smacking, beating and disperse actions

[Case] On 26 November, Mr A came across clashes on the street while taking a stroll in Mong Kok. He followed police directions to leave the scene but one police officer challenged him with provocative remarks: "Scared? Shouldn't have come here if scared." Mr A replied, "How can you talk like that?" Then he was hauled away and his spectacles were pulled off. At least two police officers kicked Mr A strongly on the shank, after which more officers held him on the ground and he felt himself being kicked, pulled and pinched.

(a) 26 September "Reclaim Civic Square" action

Scholarism and the Hong Kong Federation of Students initiated action to retake Civic Square³. A large number of police officers were deployed to intercept protesters, resulting in clashes. For a while, pepper spray was used and protesters were intimidated or beaten by police with batons. At least 4 people were taken to hospital and many more wounded.

A 26-year-old man surnamed LUK, who was among those taken to hospital, said he was somehow hurled into the square as he attempted to shield a friend. In the midst of chaos, he fell on the ground as a police officer hauled him away. He felt himself being trod on and kicked. He had to be taken to the hospital because of dizziness and vomiting.

² Information provided by the Hong Kong Journalists Association at its press conference on 27 March 2015.

³ "Boycott of classes turned into clashes, Joshua Wong arrested, High school students hit by pepper spray", A02, *Ming Pao*, 27 September 2014; "Clashes broke out and police overpowered 200 people as students forced their way into Civic Square", A08, *HK Economic Journal*, 27 September 2014; "Joshua Wong arrested, Four taken to hospital including police officer and students, Boycott of classes turned into storming of government headquarters", A01, *Oriental Daily*, 27 September 2014; "Sudden charge on government headquarters by Federation of Students in preparation for Occupy Central", A04, *Hong Kong Economic Times*, 27 September 2014; "For some time the police refused to open gate, delaying assistance to student with heart discomfort", A02, *Ming Pao*, 27 September 2014.

(b) Clashes between police and citizens on 27 September

Multiple clashes took place on 27 September, with at least 21 people taken to hospital and the number of wounded near a hundred.⁴ At 1:30 a.m.,⁵ the police again used pepper spray to drive away protesters. At least 6 or 7 students were hit when officers used pepper spray without warning. A reporter of Sing Pao was also hit by the spray. People gathering outside the Legislative Council were in hundreds. Many were hit by pepper spray and needed to wash their eyes with water. Sometime after 4 a.m., the police again took action in a bid to expel people.

A student said : "How could the police use pepper spray and excessive violence without giving proper warning? Why did they actively attack totally defenseless students, punching and kicking us? They even continued their assault on injured ones. Why was my girlfriend, someone of the weaker gender, subjected to such attack despite having been injured already? Anyone can see the news about police attack at 7 a.m. but I can add that actual situation on the ground was many times more horrible than that captured on camera. Those riot police lost sense of humanity and wildly fired pepper spray. Those sounds of horrified yelling and screaming I can almost hear them now when I close my eyes. Citizens were dragged on the ground. Sour stinking smell was all over the place. Everything is still vivid in my mind."⁶

Sometime after 7:00 a.m.,⁷ riot police were sent to expel people, using batons, long shields and pepper spray. Some 60 to 70 protesters were pushed over and hauled away. They were driven from the passageway. The gate at the car park entrance of the Legislative Council was closed to keep people from entering. Many protesters who had been pepper-sprayed needed water for cleansing, while people continued to gather beyond Tim Mei Avenue. Some police officers forcibly lifted the canopies of the umbrellas held by protesters and directly sprayed onto people.⁸

A protester, who wished to remain unnamed, said that before dawn he was pushed to the ground and kicked over 10 times by police on Lung Wui Road outside Citic Tower. He was then taken onto a police vehicle and driven to Aberdeen police station to give statement, and even charged for attacking the police. He later got himself released on a \$500 bail.⁹

The Hong Kong Journalists Association issued a statement, strongly condemning the police for using force on journalists who were reporting on the assembly outside the Central Government Offices the previous night. In one case a police officer grabbed a reporter of Asia Television by his neck. A journalist of Hong Kong In-Media, despite having revealed his identity and wearing a press card, was shoved by police officers. The Association said that those incidents were regrettable. They strongly condemned such behavior and requested the police to account for the matter and undertake follow-up actions to ensure that similar incidents would not happen again in future.¹⁰

⁴"At least 21 hurt in clashes outside government headquarters (04:00)", the News, Instant News, *Ming Pao*, 27 September 2014; "Police again used pepper spray on Tim Mei Avenue at 2 a.m. (03:03)", the News, Instant News, *Ming Pao*, 27 September 2014.

⁵"Boycott of classes turned into clashes, Joshua Wong arrested, High school students hit by pepper spray", A02, *Ming Pao*, 27 September 2014; "Police again used pepper spray to disperse students (01:30)", the News, Instant News, *Ming Pao*, 27 September 2014.

⁶"What I saw on the square was hundred times more horrible than that shown on news footage", *inmediahk.net*, 28 September 2014.

⁷"Clashes resumed as the police dispelled protesters in the morning (07:36)", the News, Instant News, *Ming Pao*, 27 September 2014.

⁸"Riot police expelled protesters from the scene", *Inmediahk.net*, 27 September 2014.

⁹"Cell phones of those arrested are seized by police", A04, *Apple Daily*, 28 September 2014.

¹⁰"Hong Kong Journalists Association condemns police for using violence against journalists (14:45)", the News, Instant News, *Ming Pao*, 27 September 2014; "Occupy Central commences, Urge for retract of decision by Standing Committee

The British Broadcasting Corporation, reporting on the dispersal of pro-democracy protesters by Hong Kong police, quoted Occupy Central: "Police used pepper spray without warning; unnecessary force was used against peaceful protesters."¹¹

(c) Police fired 87 tear gas grenades at dusk, 28 September, causing many injuries and making people feel sick

Police fired 87 tear gas grenades towards 9 spots, filling various road sections with tear gas. Also, pepper spray was used many times, and batons and long shields were deployed. Irritated by tear gas, many protesters had tears running down their faces and were visibly in pain.¹² Protesters who had inhaled tear gas shed tears incessantly, experienced breathing difficulty and felt sick. Some laid prostrate on the ground and could not stop vomiting. Some felt itching pain in the eyes, suffered breathing difficulty and even convulsion. They were later taken to hospital for treatment.¹³

By 5 p.m. on 29 September, the Red Cross in Admiralty had handled 132 emergency cases, mostly sickness for inhaling tear gas, or bone fracture and injuries due to falls. Three of the injured were taken to hospital by ambulance after first aid treatment.¹⁴ Among them was a young man in his twenties who had been treated by two voluntary first aid workers of the Red Cross, CHAN Wai-lit and CHAN Yiu-lam. CHAN Yiu-nam said that the young man fell while escaping from tear gas, and felt acute pain on his right shoulder, elbow, wrist and ankle, probably due to severe bone fracture.

As can be seen on news reports and video footage, a man was standing in front of other protesters, facing away from the police. A police inspector dressed in white pulled the man's left arm slightly. When the man turned around, pepper spray was immediately sprayed straight into his eyes. He recoiled in pain. Someone standing next to the victim, who saw what happened, roared in anger at the inspector who then backed off.¹⁵ LEE Ka-ho, a photographer of Apple Daily, was hit by stray pellet when he was reporting on the tear gas attack launched by the police. As he was crossing Harcourt Road after the first round of grenades, riot police who were 10 meters away fired the second round. "Suddenly I felt a sharp pain on my left thigh, so painful that I immediately went down on my knees. It was then that I saw a tear gas pellet close by." Two sizeable red circular marks were left on his left thigh, and he was taken to A&E. Diagnosed to be suffering from burn, he had to rest for five days.¹⁶

of the People's Congress and restart of electoral reform", A01, *Apple Daily*, 28 September 2014; "Reporter of ATV grabbed by the neck while on duty", A05, *Apple Daily*, 28 September 2014; "Riot police fired pepper spray unrestrainedly, nearly ended in stampede", *Inmediahk.net*, 27 September 2014.

¹¹ "BBC : Hong Kong police used unnecessary violence (21:10)", the News, Instant News, *Ming Pao*, 27 September 2014.

¹² "Tear gas grenades fired outside City Hall (22:25)", the News, Instant News, *Ming Pao*, 28 September 2014; "Police fired tear gas grenades repeatedly, Clearance of Central mostly complete", A02-03, *Sing Pao*, 29 September 2014; "Admiralty turned into battlefield, Police dispersal by tear gas grenades, Occupy Central turned to Mong Kok", A02, *Sing Tao Daily*, 29 September 2014.

¹³ "Floppy internal organization, Repeated appeals for defense in assembly", A06, *Hong Kong Economic Journal*, 29 September 2014; "Protester bellowed at police for bullying", M02, *Hong Kong Daily News*, 29 September 2014; "Journalist fell unconscious after inhaling gas", A03, *The Sun*, 29 September 2014.

¹⁴ "Psychological support hotline for people disturbed by conflicts", A15, *The Sun*, 30 September 2014.

¹⁵ "Chaos created to the advantage of the regime, Suppression of defenseless citizens, Level of police violence raised incessantly", AAA4, *Apple Daily*, 28 September 2014.

¹⁶ "Tear gas grenades, pepper spray, suppression, medical stations packed with the wounded, Police cleared ground with iron fist, 26 taken to hospital", AAA3, *Apple Daily*, 28 September 2014.

Casualties of tear gas grenades on 28 September:

Source	26 th September	27 th September	28 th September	29 th September	30 th September
CHEUNG Tak-keung , Assistant Commissioner of Police	A total of 41 people were injured and taken to 9 hospitals				
Sing Tao Daily ¹⁷			52 protesters were taken to 11 hospitals for treatment		
Ming Pao ¹⁸		At least 21 injured			
Red Cross ¹⁹		A total of 132 emergency cases handled, with 3 people taken to hospital by ambulance			13 new cases
KO Wing-man , Secretary for Food and Health ²⁰	70 to 80 treated in hospital, all for minor injuries				
LIU Shao-haei , Chief Manager, Hospital Authority ²¹		93 cumulative cases, with 7 people remaining in hospital in stable condition			
HO Hiu-Fai , Consultant, Accident & Emergency, Queen Elizabeth Hospital ²²		About 7 – 8 people sought treatment at the Queen Elizabeth Hospital because of protests			

¹⁷ "Police line charged, Minimum force used, 87 tear gas grenades fired, "no alternative option"", A04, *Sing Tao Daily*, 30 September 2014.

¹⁸ "Clash outside Central Government Offices, at least 21 injured (04:00)", the News, Instant News, *Ming Pao*, 27 September 2014; "Some time after 2 a.m., police on Tim Mei Avenue use pepper spray again (03:03)", the News, Instant News, *Ming Pao*, 27 September 2014.

¹⁹ "Psychological support hotline for people disturbed by conflicts", A15, *The Sun*, 30 September 2014. "145 emergency cases handled by Red Cross at Admiralty", A08, *Hong Kong Daily News*, 1 October 2014.

²⁰ "HK Federation of Students seeks expansion of occupation, Targets government bodies", A17, *Hong Kong Economic Times*, 1 October 2014.

²¹ "Student seeks emergency treatment, Dare not mention hit by tear gas", *Hong Kong Economic Times*, 3 October 2014.

²² *Ibid*

(d) Clashes as crowds dispersed or partitioned, causing many injuries among protesters

Clashes erupted on a number of nights - October 3, 4, 18 and 19. On each occasion, at least 20 persons sought emergency assistance in hospitals. Most patients sustained bleeding injuries on the head, shoulder or elbow and were discharged after treatment.

It must be pointed out that the police force allowed the use of lethal force by officers in many of their operations to disperse people. In the month of October alone, the Kwong Wah Hospital received at least 28 cases of patients with injury on the head due to hitting by police baton.²³

- On 4 October, a protester was allegedly hit to bleeding on the head by a police officer with a baton and had to be taken to hospital. When the officer involved was about to leave on police vehicle, protesters in quest of explanation surrounded the vehicle. Dozens of officers arrived at the scene as reinforcement. They formed a human chain around the police vehicle to provide protection. In the escort were several policemen belonging to the Organized Crime and Triad Bureau (OCTB). As the police vehicle was being driven away slowly, a truck came from one side suddenly, forcing the police vehicle to a halt. Citizens on the spot cheered “Well done” at the truck driver. The group of OCTB officers immediately went up to pull down the truck driver. The latter was punched, kicked and taken away in handcuffs. The truck driver, surnamed CHEUNG, was taken to Tong Mi Road where his handcuffs were removed; and he was released after the police had taken record of his identity card. He later said that all the time when he was escorted by policemen, the latter kept cursing at him and that he lost his spectacles in the incident.²⁴
- On 3 October, on the Citic Tower elevated walkway, a group of plainclothes officers - wearing police vests on otherwise ordinary clothing - suddenly charged upon protesters. The latter retreated to the intersection between Citic Tower and Central Government Offices where they jostled with the officers present. A number of officers raised extendible batons to threaten protesters. Reporters were also intimidated with extendible batons and told not to get near. Some protesters were pinned down on the ground. Citizens at the scene shouted at the police to lower their extendible batons. But the police paid no attention. At one point, the police officers put on helmets and charged towards protesters.²⁵
- On 18 October, fierce conflicts broke out in multitude in the evening after the police conducted massive clearance of roadblocks in the Mong Kok occupy site. After repeatedly raising the yellow and red warning banners, police used pepper spray and batons many times to disperse crowds. Some protesters were hauled on the ground by police, others kicked. Many were overpowered and taken onto police vehicles. There were many casualties.²⁶
 - During the period of conflicts, citizens seeking emergency medical treatment mostly sustained injuries with bleeding on the heads, knees and elbows. Most were released from hospital after treatment.²⁷

²³ “Police officers unions call for usage of tear gas grenades again”, A04, *Apple Daily*, 5 October 2014.

²⁴ “Mong Kok guarded by thousands, shouting “shame on police””, A07, *Apple Daily*, 5 October 2014; “Pro-occupy driver surrounded and beaten by group of policemen”, A07, *Apple Daily*, 5 October 2014.

²⁵ “Admiralty On-the-Spot (1:24)”, *Inmediahk.net*, 4 October 2014

²⁶ “Nathan Road re-occupied”, A02, *Ming Pao*, 18 October 2014; “Large-scale, chaotic scuffles in Mong Kok after dark”, P01, *Headline Daily*, 18 October 2014.

²⁷ “24 sought help at A&E of Kwong Wah Hospital”, A02, *Apple Daily*, 19 October 2014; “Chaotic scuffles in Mong Kok, 24 wounded, Non-violence was the best weapon, said the Occupy-Central Medical Team”, A09, *Ming Pao*, 20 October 2014; “5 policemen injured, 4 arrested, Mong Kok breaks into “fight for control of roads””, P08, *Headline Daily*, 20

- First aid booths in the occupy site received 20 wounded persons seeking assistance, mostly with bleeding on the head and injuries on the arms from beating; others with sprains and injuries from falls while being chased by the police. A volunteer said that, at some point, over ten injured persons came to his first aid booth for assistance, some with bleeding wounds on the head due to hitting by police batons and some had their hands beaten to swelling, possibly injured into muscles and tendons. There were also people with sprains from falls that occurred as they ran from the police's disperse action. Some had cuts and abrasions on their soles after losing their shoes; others were hit by pepper spray. Apart from those seeking help at the first aid booths, some were treated by mobile first aid workers on the frontline.²⁸
 - Two citizens in the occupy area, who had suffered bone fracture in the arm after falling to the ground, were discharged from hospital after treatment.
 - A 23-year old Mr CHENG, standing right in front of a row of mills barriers, was struck to bleeding on the head by police baton. When he had his umbrella opened to guard against pepper spray from the police, several officers reached across the mills barriers and "hit people like mad", causing bleeding wounds on the head to many people.²⁹
- On 19 October, police again used lethal force to dispel protesters. Both sides made repeated attempts to charge at the defense line of the other.
 - A video footage showed the standoff between police and protesters in the rally outside Wai Fung Plaza in Mong Kok. People in the crowd raised their hands and moved backward. A team of anti-riot policemen entered the occupy zone and signaled people to back off. But half a minute later, anti-riot police suddenly moved away mills barriers. Raising their batons, they charged towards rally participants. Then the batons were swayed downwards on protesters.³⁰
 - Hospital Authority figures show a total of 40 people taken to the Kwong Wah Hospital during the 3-day period.
 - Dr AU Yiu-kai, Convener of the Occupy-Central Medical Team, said that 13 injured persons were treated at the Mong Kok first aid booth, including 7 with bleeding injuries on the head. Among them, 3 were serious cases that had to be taken to hospital by ambulance.³¹ A member of the Mong Kok first aid team said that, of those treated, about half were injured on the head, some seriously.
 - A man in his twenties with bleeding injuries on the head felt dizzy. There were so many wounds on his head that three medical volunteers, with their six hands in total, could not manage to press on all the wounds. Ambulance was called to take the man to hospital.³²
 - At 00:09, the police deployed pepper spray and police batons. A member of Scholarism, 20-year old, nicknamed Kaiser, was hit on the back of his head before he had time to put on his helmet. When he came to a nearby first aid booth, his hands were all stained with blood. He later received treatment at the Kwong Wah Hospital where he was given a stitch on his wound of 1 cm. His condition was considered not serious after treatment.³³

October 2014.

²⁸ "Volunteer fearless in manning the only first aid booth", A02, *Apple Daily*, 19 October 2014.

²⁹ "Police gone mad, said battered young man", A02, *Apple Daily*, 19 October 2014.

³⁰ "Chaotic scuffles at Mong Kok crossroad, Police removed mills barriers and charged at crowds", A05, *Apple Daily*, 20 October 2014.

³¹ "Medical volunteers condemn police for using lethal force", A04, *Apple Daily*, 20 October 2014; "7 hit on the head by police batons, according to doctor of Occupy-Central", A10, *Hong Kong Economic Journal*, 20 October 2014.

³² "Medical volunteers condemn police for using lethal force", A04, *Apple Daily*, 20 October 2014.

³³ "Chaotic scuffles in Mong Kok, 24 hurt; Non-violence was the best weapon, said the Occupy-Central Medical Team", A09, *Ming Pao*, 20 October 2014.

- Many people fell to the ground amidst chaos. Mr LEUNG, who worked in the catering trade, was helping some protesters to stand on their feet when he was hit by police baton on various parts of his body. Many reddish marks were left on his back. He felt numb on his right little finger and his left knee was swollen. For a while he was unable to move. He then sought treatment at the Kwong Wah Hospital and, after examination by doctor, was advised that he suffered no bone fracture.³⁴
- A 19-year old student of Lingnan University surnamed CHING was struck on the back of his head by police with baton. His head sustained bleeding wounds and, with blood stains all over his ears, he sought treatment at the Kwong Wah Hospital. He criticized the police for brandishing batons thoughtlessly and assaulting protesters without regard to the position of the body being hit.³⁵
- On 6 November, conflict broke out twice on the Mong Kok occupy site. The police swayed batons and used pepper spray many times to suppress protesters. 15 people were hurt and 2 arrested.³⁶
 - A video recorded by a witness showed that a number of protesters were forced to retreat to a spot outside the Hang Seng Bank, near a tent next to the Mong Kok MTR station. A rally participant wearing a red helmet was seemingly punched on the head by a policeman and pulled to the ground. He was further dragged for 4 meters by several more policemen, after which he was pressed on the ground and later taken away. Around the same time, the police were reportedly heard to be giving the verbal order “Push ahead” outside the Jockey Club Betting Centre on Argyle Street. Some 30 policemen dashed forward right away, and over ten people in the rally fell to the ground.³⁷
- On 19 November, protesters in the Admiralty occupy area attempted to break into the Legislative Council building at midnight. In an effort to drive them away, police raised batons and again used pepper spray. Multiple clashes broke out, at midnight, 3 a.m. and 4 a.m., including several counter-strikes by police at 4 a.m. Many people were reported to be injured.³⁸
- On 25 November, police displayed the red warning banner at 5 p.m., and declared the assembly of protesters on Portland Street illegal. There was jolting from both sides. At 11 p.m., the police dispersed crowds on Portland Street and again raised the red and yellow banners as warning. At least three mobile high platforms were deployed by the police, on two of which were officers with helmets and gas masks. Pepper fluid was sprayed from the platforms to repel protesters. The line of policemen advanced and, with batons among their equipment, pushed protesters towards Yaumatei. Many people were wounded to bleeding. Clashes spread from Portland Street in Mong Kok to Canton Road and Ferry Street. Some buses and private cars were stopped. At least two of the arrested protesters were wounded.³⁹

³⁴ *Ibid*

³⁵ *Ibid*

³⁶ “Dark night in Mong Kok, Flare of conflict causes 15 hurt”, A04, *Apple Daily*, 7 November 2014.

³⁷ “Dark night in Mong Kok, Flare of conflict causes 15 hurt”, A04, *Apple Daily*, 7 November 2014; “Glaring light pointing at police at close range, Gang with face-masks attempted to block road, Clashes and disturbances in Mong Kok and Central, 5 arrested by police”, A05, *Hong Kong Commercial Daily*, 7 November 2014; “Inciter of storming in Mong Kok arrested by police, Hui Sir: pointing glaring light at police equivalent to provoking them”, 08, *Headline Daily*, 7 November 2014; “Mong Kok On –the-Spot : police used pepper spray (02:51)”, *Inmediahk.net*, 6 November 2014; “Dark night in Hong Kong 2 (01:05)”, *Inmediahk.net*, 9 November 2014; “Mong Kok On-the-Spot (01:05)”, *Inmediahk.net*, 6 November 2014.

³⁸ “Protesters charged at the Legislative Council building, Broke glass in intrusion attempt”, *finet.hk*, 19 November 2014; “Charge at Legislative Council building, 6 men arrested, Government condemns “thugs”, Police claim there would be more arrests”, A02, *Ming Pao*, 20 November 2014; “6 men arrested, 3 policemen hurt”, *Hong Kong Daily News*, 20 November 2014.

³⁹ “Roadblock clearance turned into dispersal and arrests, Protesters accused of “illegal assembly”, 80 arrested”, A03,

- A citizen was accused of filming the police with flash. Police officers rushed forward to take him into custody. Images of the man with blood on his face were captured. According to spectators' accounts, his injury was caused by the police. Tension was high at the scene. Officers kept guard with round shields and batons; at some point sealed off the junction outside HSBC Centre and Wai Fung Plaza and called for citizens to leave in the direction of Tsimshatsui. Hundreds of protesters were also on the alert in the occupy area, wearing helmets in front of the defense line.
 - Some protesters, dissatisfied that the police did not arrest counter-protesters who allegedly assaulted others, engaged in heated exchanges of words with the police. All of a sudden, officers dashed at the protesters, punched and kicked them as well as waved batons as they made arrests. In the midst of the clashes, some policemen were surrounded by protesters. Some protesters were punched on the chest by police. A policeman knelt with one knee on the neck of a protester lying on the ground.⁴⁰
 - Many policemen kept using batons to strike on citizens who were following police directions in leaving the pavement area. Video footage clearly showed that Superintendent CHU King-wai, Shatin Division Commander, struck some citizens on the back of their necks and waists with baton. After the incident, police said that the superintendent was relieved from related duties.⁴¹
- On 26 and 27 November, continual clashes after Mong Kok clearance
 - At 4:30 a.m. on 27 November, when dozens of people repeatedly "crossed the road" at the junction of Sai Yeung Choi Street and Soy Street, police dashed forward and hit them with batons. At least 3 were arrested.⁴²
 - Mr CHENG, together with a friend, was in Mong Kok merely to observe the situation when he was hit by police with baton without warning. "I uttered, 'Don't hit. We're just passing by. Many citizens here. There're girls too.' And I was hit by police baton one or two seconds later." He said he was hurt on the back of his neck and on his elbow and would shortly go to the hospital for examination.⁴³
 - When some people in front of the 19-year-old secondary school student Alice went into shouting, the police from behind first pushed her aside, then pulled her hair making her tumble and hurt her neck. Later, X-ray examination showed that her neck was injured though there was no dislocation of cervical vertebra. At some point she vomited and felt dizzy. Horatio TSOI, one of the "ten heroes" of HKTU Network, happened to be by her side and filmed the whole incident as testimony to the ill deed of the police. After Alice was pulled to the ground, a policewoman in uniform punched her on the face and said, "It's dangerous to be here". Alice was not arrested.⁴⁴
 - Female student YU Kai-hei was accused by police in Mong Kok. In the incident, she was sexually harassed on the breast by a policeman. A policewoman pulled her by her hair as well as her body, pinched her face and scratched her chin, and also punched her on the

Ming Pao, 26 November 2014; "Clearance in Mong Kok lasting day and night, Cheers as through roads restored", A04, *Wen Wei Po*, 26 November 2014; "6000-strong police cleared Mong Kok, Vigorous resistance by 5000 occupiers, Tangled fights on Portland Street", A01, *Apple Daily*, 26 November 2014.

⁴⁰ "Roadblock clearance turned into dispersal and arrests, Protesters accused of "illegal assembly", 80 arrested", A03, *Ming Pao*, 26 November 2014.

⁴¹ "Internal news circulating in police force about Chu King-wai: he would be investigated and might not be able to retire in honour", *Apple Daily*, 26 November 2014.

⁴² "Joshua Wong accuses police of assaulting his private parts", *Apple Daily*, 28 November 2014.

⁴³ "Alleged to have attacked pedestrians with baton, Superintendent ceases to handle occupy-related duties", A06, *Hong Kong Economic Journal*, 29 November 2014.

⁴⁴ "Female student injured on the neck accused police of power abuse", A08, *Apple Daily*, 9 December 2014.

face and head. She was then held on the ground and continued to be assaulted by an officer who later pulled her up and banged her head against roadside railing. Her injuries were examined by a doctor who found her with swollen foot, dizziness and headache as well as some protrusion in vertebral column.

- A citizen named Ivan, beaten to bleeding on the right forehead, was given 3 stitches on his wound in Kwong Wah Hospital. He was injured on the hand and foot too. He pointed out that right after the police came, they waved batons directly on citizens, many of whom then fell on the ground. He protected his head with both hands and screamed “Help”. His head was hit to bleeding. His feet were stepped upon by police resulting in bruising. The police went on with their assault. “The number of times they used baton on me can’t be counted.” He said that the police gave no warning before waving batons, and that they only showed the red banner of warning after assaulting people.⁴⁵
- On 28 November, hundreds of protesters attempted to walk from Sai Yeung Choi Street South to Argyle Street and broke into clashes with the police again. Police in anti-riot gear dispersed the crowds with batons. Many were injured. Special police squad in blue uniform, with shields and batons, charged into Sai Yeung Choi Street to disperse the crowds. Some people got hit by police baton. Pepper spray was used at some point.⁴⁶ In the week preceding 1 December, about 80 people were injured in the mayhem and taken to hospital by ambulance.⁴⁷

(e) Clashes on Lung Wo Road

- At 3 a.m. on 14 October, police dispersed protesters on Lung Wo Road. Batons and shields in hand, police gradually advanced on protesters who were directed to leave immediately. Pepper spray was repeatedly used. A number of protesters were overpowered and held on the ground. Many protesters retreated to Tamar Park.⁴⁸ On 15 October, protesters renewed attempts to take over Lung Wo Road. Conflicts again broke out between police and protesters in Tamar Park and there was shoving from both sides. Once again the yellow warning banner was raised by the police and pepper spray was used. More clashes took place as the police was confronted by disapproving and discontent protesters when one ordinary citizen was forcibly taken away. Of the 45 arrestees during police clearance operations, 9 were injured.⁴⁹
 - A student of Chu Hai College of Higher Education surnamed LEUNG said in an interview after release that on the 14th, he started to retreat after learning about police clearance. But when he saw a man and a woman tumble ahead of him, he rushed forward to help

⁴⁵ “3 stitches on head for citizen hit by police baton on Shantung Street, Citizen described police as behaving like mad”, *Inmediahk.net*, 27 November 2014.

⁴⁶ “Midnight “shopping” by group, turning Yaumatei, Tsimshatsui and Mong Kok upside down”, A02, *Apple Daily*, 30 November 2014; “Mobile occupation in Yaumatei, Tsimshatsui and Mong Kok, 28 arrested by police, “shopping” and “picking up money” all through the night, chanting and throwing objects, Criticized as nuisance in public”, A06, *Ming Pao*, 30 November 2014.

⁴⁷ “Strongest condemnation on radical troublemakers, Authority of police unaffected by injunction, according to Lai Tung-kwok”, A06, *Ta Kung Pao*, 4 December 2014.

⁴⁸ “Protesters block Lung Wo Road, Police clearance this morning”, A02, *Hong Kong Economic Times*, 15 October 2014; “Police disperse protesters on Lung Wo Road at midnight”, *finet.hk*, 15 October 2014; “2000 people block Lung Wo Road, Counter-siege of police in tunnel”, A03, *Ming Pao*, 15 October 2014.

⁴⁹ “Suspected of secretive gang-up beating of protester, 7 police officers transferred; Tsang Kin-chiu of Civic Party beaten black and blue all over, will seek legal action”, A08, *Hong Kong Economic Journal*, 16 October 2014; “Protesters vow to take to task 7 police officers involved in gang-up assault, Officers transferred from frontline, may be suspended from duty pending investigation”, A02, *Ming Pao*, 16 October 2014; “Occupy-central news on-line (2:24)”, *Inmediahk.net*, 16 October 2014.

them up. Plainclothes police got over him immediately and he was overpowered on the ground. Without any umbrella or other object in hand, he was repeatedly assaulted by the police. He recalled, "I was already injured from scraping on my feet as police pressed me on the ground. Then I was kicked twice and my head pressed upon by a foot." He added that after he had been restrained with plastic straps by police, he was twice slapped on the face when he turned back to observe situation on the spot. Order was shouted at him not to turn around to look. He was alleged to have committed two offences – those of obstructing police in carrying out duties and illegal assembly.⁵⁰

- A woman protester said that, as she was picking up her spectacles which had fallen off when she was pushed, her arm was grabbed from behind and then pulled sideways. Dragged on the ground, her hand and both of her feet were scraped seriously.⁵¹ Another woman said, after release by police, that she merely took part in sit-in protest by the side of the Chief Executive Office and did not do anything against the police. She claimed that the police dashed towards her as if they had lost control. They shouted at her to back off and subsequently, hauled her away and formally arrested her.⁵²
 - During the retreat from the tunnel, a male protester was looking for a water-tap to get water for another protester whose face had been pepper-sprayed. A policeman rushed towards him and made him tumble. He was caught up with, sprayed with pepper right on his face and kicked on the head by "uniform boots".⁵³
 - Another protester was also retreating, holding up his hands, when a police officer came forward to grip him by his upper garment and pushed him onto the ground. Some officer wearing boots stepped on his head and also punched him with fist. The corner of his mouth was ruptured and his upper garment torn.⁵⁴
 - In Tamar Park, a social worker did no more than assist citizens who had tumbled from shoving by police. He was pulled to a dark corner near a tunnel exit, punched, batoned, kicked and stepped upon by policemen. The young man in his twenties suffered serious injuries on his knees, head, hands and back.⁵⁵
- On 30 November, the Federation of Students called for the "Target the regime, Vow for democracy" action. At least 61 people were taken to hospital. The number of wounded exceeded a hundred.⁵⁶ At 3 a.m., three rows of police officers waved batons frantically, injuring many people. A protester was seen sitting by a roadside with both hands on his head while his face was covered with blood. He was taken away by the police. All through the night of confrontation, the police used pepper spray and tear agents in liquid form many times. Batons were used to smack protesters. Many protesters had bleeding wounds on the head. Protesters taken away are estimated to be in the dozens at least.⁵⁷ A police officer was also injured on the face. Quite a number of protesters were pressed to

⁵⁰ "More revelations about police violence towards university students, Police seem to have craving for beating people to release anger, said students", "Occupy Movement Live (1:04)", *Inmediahk.net*, 16 October 2014.

⁵¹ "Many round-shaped bruises on back, may have been caused by police baton, says doctor", A02, *Ming Pao*, 16 October 2014; "Many citizens suffer beating, evil policemen more than 7 in number", A02, *Apple Daily*, 17 October 2014.

⁵² "Occupy Movement Live (23:00)", *Inmediahk.net*, 15 October 2014.

⁵³ *Ibid*

⁵⁴ *Ibid*

⁵⁵ *Ibid*

⁵⁶ "61 to Accident & Emergency, highest number since occupation began, Protesters shed blood; 17 police officers hurt", *Sing Tao Daily*, 3 December 2014; "Admiralty On-the-Spot: Numerous casualties, according to voluntary worker at first aid booth (8:50)", *Inmediahk.net*, 1 December 2014.

⁵⁷ "Two student organizations call for encirclement of government headquarters, Shields used to defend against police batons, The injured scatter everywhere", *Apple Daily*, 1 December 2014; "Two student organizations mobilize thousands to encircle government headquarters, Clashes result in bloodshed, Lung Wo Road brought to standstill, Police use pepper spray and batons to disperse", A16, *Hong Kong Economic Journal*, 1 December 2014; "Call to encircle

the ground and later taken away on police vehicles. Lillian, a medical volunteer, suspected that the police might have increased the concentration of pepper spray and tear agents used on that day, "Muscles inside the eyes get swollen. In the past, one could open one's eyes and wash them with saline water; not this time"⁵⁸.

- Around 1 a.m., a unit specialized in clearance operations was deployed by the police. They charged into the crowds; and used batons, pepper spray and tear agents liquid fiercely. Protesters pulled back in haste and chaos. Forced to move from the westward lane of Lung Wo Road to the eastward lane, some protesters toppled - one on top of another - in front of the concrete median barrier in the middle of the road. Someone fell from the 1-meter-high barrier and was helped by a companion to get up and leave. A woman protester, shocked in watching the clashes, broke into tears.⁵⁹ A police officer struck a canister of tear gas forcefully onto the face of a protester wearing helmet.
- At 7 a.m., the police took action to disperse people, repeatedly firing pepper spray and waving batons to overpower protesters. Some protesters, beaten, had blood all over their faces. Many people were arrested, some taken to hospital. Those protesters who originally occupied Lung Wo Road ran towards Tamar Park. The police further enlarged the area of dispersal to the Admiralty Centre footbridge. The situation was in utter disarray. Many people were injured in chaos, including a press photographer.
- As the police pushed towards protesters, a 17-year old woman protester named P failed to run in time. Another protester tumbled and fell upon her. She said emphatically that she had already lost her ability to defend herself in the extremely chaotic situation. Still, she was struck twice on her thigh by police, causing a sizeable bruise.⁶⁰
- Student Jon HO was pepper-sprayed in his eyes and his whole face. His glasses broken, he was pushed to the ground among protesters and was stepped upon a few times. Suddenly he was grabbed forcefully and a few policemen stepped on him over a dozen of times. Out of desperation, he played dead lying on the road. After a while, when he was motionless, a police officer struck baton on his body until another came to call for a halt, "Hey, stop! Don't beat him!" When the officers were gone, he came among the protesters, let medical volunteers tend to his wound and could not help crying.⁶¹

1.1.2 Excessive use of force during the arrest process

[Case] On 6 December, Mr B, taking late snacks in Mong Kok, was surrounded by the police for alleged unlawful assembly. Mr B asked loudly in what direction he could leave. All of a sudden, he was pulled out from the crowd by at least five police officers to a spot without street light, pressed to the ground, and shouted at: "Don't move. Why do you resist?"

government headquarters, Police clear Lung Wo Road with strong hand", 01, *Headline Daily*, 1 December 2014.

⁵⁸ "Female student injured on the neck accuses police of power abuse", A08, *Apple Daily*, 9 December 2014;

"Independent Police Complaints Council to monitor clearance in Admiralty", *Sing Tao Daily*, 9 December 2014.

⁵⁹ "Over 1000 protesters surround Central Government Offices, Clashes break out, Tangled fighting throughout the night, 40 arrested", 08, *Headline Daily*, 2 December 2014.

⁶⁰ "17-year old girl shows her wound, hit by baton and arrested while lying on ground after tumble (23:05)", The News, Instant News, *Ming Pao*, 4 December 2014.

⁶¹ "Jon Ho: I will never forget this hit by baton", *inmediahk.net*, 1 December 2014.

After Mr B was brought onto a police vehicle, a police officer in the vehicle asked: “Does this one need to be hit?” The officer taking Mr B to the vehicle answered “yes”. Mr B later recalled that while the officer was about to hit him, the driver of the police vehicle said, “My fellow, it’s not so clean here. Would you want to go somewhere in the vicinity?” He was implying that there were media people outside the vehicle.

Mr B was brought to another police vehicle, the curtain of which had been drawn. A police officer punched Mr B in the chest twice. He was later brought to Mong Kok Police Station where he was sworn at and criticized by the police who asked him, “How much money did you receive?”, implying that Mr B took part in the protest for monetary reward. They also pulled him by his hair, took off all his clothes, and slapped him.

[Case] Mr C was arrested on 26 November in Mong Kok. In the process, his whole body was lifted up horizontally by the police. A number of police officers then pressed him to the ground and stepped on his head with their feet, saying “We bloody hate those who assault the police” and “We don’t want to make it easy for you people”. After he was taken onto a police vehicle, he was told to squat down and, for a while, pressed on the floor of the vehicle by a police officer. At some point Mr C tried to take note of the officer’s identification number, only to be realized by the officer. The latter flashed a torch against his eyes, saying “you now recognize my number”, and slapped him. When arrangement was later made for Mr C to be examined for body injuries in Kwong Wah Hospital, the police lied to him that he must sign a document authorizing the police to obtain his medical report.

There were many incidents of excessive force exercised by the police in the arrest process, causing injuries to arrestees. The latter seemed to have become the target for the police in venting emotions. Below is a summary:

- Joshua WONG, convener of the student organization Scholarism, was arrested on the night of 26 September. He was forcibly lifted up and carried away by four police officers. One of the officers intentionally took away his spectacles, which were never returned. WONG was once accused of assaulting police. The charge was later amended to breaking into government premises, disrupting order in public places and unlawful assembly. The police denied him bail and detained him for 48 hours, the maximum period of detention of suspects allowed under the law. This prompted his parents to issue a public letter, questioning if this was political persecution.
- During the police clearance of Lung Wo Road in Admiralty in the small hours of 15 October, several plainclothes police officers tied up the hands of Ken TSANG Kin-chiu, a Civic Party member and also a member of the election committee that chose Hong Kong's Chief Executive, lifted and carried him away from Lung Wo Road to a hidden corner in Tamar Park. In the dark, Tsang was beaten and kicked for about four minutes by the officers who were unaware that the whole incident was being filmed by news crew of a local television station.⁶³ Tanya CHAN, the barrister accompanying TSANG to the hospital, said that there were injuries and bruising in TSANG’s left eye, corner of his right eye and right forehead, and several round scars with a diameter of 2 cm on TSANG’s chest and back as well as bruising below his neck. It was noted that the round scars were probably caused by police batons. TSANG said he was assaulted brutally by the officers. Upon his return to the police station, he was slapped twice because he did not unlock his phone as requested by the officers. All the time he had little ability to defend himself. Emergency care specialist Dr SZETO King Ho, upon examining the photos showing his injuries, said that the irregular-shaped injuries on Tsang’s head were caused by impact – being slammed against a wall and being hit were both possible. As for the large area of red circular marks on his back and chest, they were caused by the hitting of a round-shaped hard object with different degree of force each time. The injuries thus caused can lead to risks such as brain

concussion and hemorrhage, damage to neck nerves and to internal organs such as liver and spleen, etc.⁶²

- Some of the other 44 protesters arrested on 15 October were also beaten up.⁶³ At least 10 were injured.⁶⁴ The waiting zone for the emergency service in Ruttonjee Hospital had an area for the injured protesters, which was separate from that of other patients. Each protester was guarded by at least two police officers. When moving about, each protester had both arms held under grip by two officers, one on each side. All protesters wore facial masks and there were visible marks left on their hands from fastening of straps, though handcuffs were not used.⁶⁵
 - Mr TANG, a protester, stayed in Tarmar Park that night. He helped a fellow protester, who had been pushed to the ground by the police, to get up. He recalled: "I fell, went on my knees on the ground. The police officers came, pulled my arms and dragged me along on my knees. Afterwards five of them lifted me up, while two to three officers kept kicking my feet, back and arms all the time." He was thereafter dragged to a hidden corner by four to five officers and beaten up. "Four or five police officers tore away my helmet, kicked me and punched me. It lasted for four minutes. Then another officer wearing a police vest used a baton to hit my foot. Those four to five minutes, though brief, remained vivid in my mind even after I had been detained for over 20 hours."⁶⁶
 - Mr AU was also arrested on 15 October. He said, "Many police officers charged towards us and pulled me to the ground without saying a word. They used batons, and kicked with full force at my neck, back and head." He showed journalists his wounds which numbered as many as six to seven, with the most serious one at the back of his neck. He made it clear that many of the arrestees were only there to find out the latest developments of the protest and were not making any charge. "Even if you were only standing at the sideline, without any objects in your hands, you would be pulled down by the police and then pushed to the ground by several police officers." During detention, he was treated by the police inhumanely. "Even a visit to the toilet had to wait for half an hour. The police officers asked me if I had received HK\$2,000. They said they knew both blue-ribbon (anti-Occupy movement people) and yellow-ribbon people (pro-Occupy Movement people) received payments."⁶⁷
- On 18 October, police again arrested several people. The police officers were arranged in groups of four to six, to restrain those protesters who dashed out of the police lines. Police officers subdued protesters who put up a struggle, including one who held on to a police baton, by using their knees or grapping protesters in a chokehold. Afterwards, protesters were tied with straps and brought aboard police vehicles.⁶⁸

⁶² "7 Police officers transferred for alleged beating of protester, Badly injured Civic Party Member Ken Tsang vows to take legal action", A08, *Hong Kong Economic Journal*, 16 October 2014; "7 police officers embroiled in beating of protester face transfer from frontline or suspension from duty, Beaten protester vows to pursue case against police", A02, *Ming Pao*, 16 October 2014; "The many round bruises on the back may be caused by baton, doctor says", A02, *Ming Pao*, 16 October 2014.

⁶³ "Round bruises on the back likely caused by baton, doctor says", A02, *Ming Pao*, 16 October 2014; "Several citizens beaten, Evil policemen number more than 7", A02, *Apple Daily*, 17 October 2014.

⁶⁴ "10 protesters checked for injuries in Lung Wo Road clashes", A30, *Hong Kong Economic Times*, 17 October 2014.

⁶⁵ "Round bruises on the back likely caused by baton, doctor says", A02, *Ming Pao*, 16 October 2014.

⁶⁶ "Several citizens beaten, vile policemen number more than 7", A02, *Apple Daily*, 17 October 2014.

⁶⁷ *Ibid*

⁶⁸ "Nathan Road re-occupied", A02, *Ming Pao*, 18 October 2014; "Late night serious clashes in Mong Kok", P01, *HK Headline*, 18 October 2014.

- On the morning of 26 November, the police intervened and cleared the protest sites. After nightfall, they dispersed the protesters. The protesters, when arrested, were beaten by the police and injured. Hong Kong Professional Teachers' Union issued a statement, pointing out that the police had used unnecessary force when they dispersed citizens outside the occupied areas over the previous two days. Furthermore, the police were suspected of failing to act impartially. The Union also criticized some police officers for arresting people indiscriminately, and beating protesters and journalists who did not put up any resistance, leading to the injury and arrest of quite a number of citizens and students.⁶⁹
- Joshua WONG Chi-fung of Scholarism said that in the morning when court bailiffs cleared the occupied area, the police all of a sudden charged forward and pressed him to the ground, injuring his face and ears, and attacked his groin repeatedly. "The police tried successively - six to seven times - to harm my body, including my private parts - the groin and scrotum," he said.⁷⁰
- Lester SHUM, the Deputy Secretary-General of the Hong Kong Federation of Students, was punched and stepped on by the police in his chest, waist and back when being arrested.⁷¹
- 20-year-old LIANG, unemployed, was charged with assault on police. He complained, through his lawyer, that during the arrest process, his waist was injured from beating by the police. When arrested, he was wearing a helmet and equipped with goggles and the like. He was questioned by the police why he wore a helmet, and was hit in the feet by batons.⁷²
- A citizen named LAU Man-cheong filed a lawsuit, alleging that several police officers pressed him to the ground to restrain him; one of them did so using his knee, while another officer kicked him in the head. He was sent to Kwong Wah Hospital by ambulance only after being detained for about two hours. He therefore sought compensation from the police of no less than HK\$10 million.⁷³
- On the same night, some citizens alleged that the police put them in a neck hold. A crowd gathered and surrounded the police officers. Clashes erupted between the two sides. The police flashed a red banner. A protester was pulled down by force and pressed to the ground by at least six officers. They intended to use pepper spray against him at one point. The protester was later taken away.⁷⁴
- On 30 November, the Federation of Students and Scholarism initiated a besiege of the Central Government Offices. The police used violence in the dispersal. Many protesters were arrested. They were overpowered, tied with straps and led away. Among this group of arrestees, the majority complained that they were inhumanely treated in the police station, including being subjected to air blown at full force by a fan in the cold night, provided with only garbage bags for keeping warm, forced not to use toilet for a few hours, and not allowed to sleep for as long as 30 hours, etc.⁷⁵ The representative of the arrestees LEE Ho-yin said that some police officers insulted and scolded them

⁶⁹ "Teacher union called on younger students not to go to high risk areas (19:23)", the News, Instant News, *Ming Pao*, 27 November 2014.

⁷⁰ "Joshua Wong complains of police attacking his private parts," *Apple Daily*, 28 November 2014.

⁷¹ "Nathan Road cleared, Lester Shum and Joshua Wong arrested", A01, *Hong Kong Daily News*, 27 November 2014.

⁷² "Police arrest 159 people in 2-day operation, 17 released on bail and barred from entering Mong Kok", A06, *Sing Tao*, 27 November 2014.

⁷³ "2 Mong Kok residents sue police chief and officers for extensive use of violence and demand compensation (13:30)," the News, Instant News, *Ming Pao*, 17 January 2015; "Compensation sought for alleged police beating and indecent assault", A14, *Hong Kong Economic Journal*, 19 January 2015.

⁷⁴ "Pushing and shoving at Bank Centre", *inmediahk.net*, 26 November 2014.

⁷⁵ "HKU student sustains head injuries from baton; police sends him to hospital in 3 hours", A04, *Apple Daily*, 5 December 2014.

from time to time and repeatedly made roll calls during the late night without reason, so as to deprive them of rest.⁷⁶

- Among those arrested was Patrick Henry TOY, associate professor of the Department of Chemistry of the University of Hong Kong, who was restrained by the police at Lung Wo Road at 11 p.m., with both hands locked behind his back. A witness said he had breathing difficulty at some point.⁷⁷
 - Avery NG Man-yuen of the League of Social Democrats was also arrested on the same night. He was struck by police baton three times, with the baton aiming at his head in one of those hits. Fortunately he held his hand to shield his head from the baton so his head was not injured. His ribs were stepped on by the police and ruptured. The doctor told him he would need more than a month to recover.⁷⁸
- On 1 December, a student of the University of Hong Kong named Samuel said he overheard, while having his injury examined in hospital, a policewoman's moan that too many protesters had already been arrested on the scene, leaving her little chance to "vent her emotions".⁷⁹
 - On 28 December, several protesters were arrested when they were on a "gau wu" (shopping) tour as a way of protest after the clearance of occupied areas. Amy BUTT Wai-fan, a 19-year-old girl, complained that she was led away to a police vehicle. Though she did not put up any resistance, she was pushed by three policewomen to the window side of vehicle, slapped in the face, ears and hands, and insulted and sworn at, for five to eight minutes. As a result, she had bleeding at the mouth corner, swollen ears and bruising on her arms. Amy said she was "very frightened" at that time and cried, shouting "please don't hit me again". She said the police officers involved refused to provide their police identification numbers and threatened her not to complain to the Complaints Against Police Office, otherwise she would be charged with more offences like assaulting police.

1.1.3 Connivance at violence, causing injury to many

(a) Violence in the Street

- On 26 September, CHOW Ka-ho was assaulted when handing out flyers near Tai Wai MTR Station. The Form Six student of Shatin Tsung Tsin Secondary School was campaigning for a class boycott when a man suddenly lunged forth and smacked his loudspeaker without saying a word. "I was on the loudspeaker, and an old man came up and hit my loudspeaker with his hand. My front tooth was broken," CHOW recalled⁸⁰.
- On the night of 1 October, a white-haired man suddenly raised his fist and hit a protester in the stomach at a street booth. When police arrived to separate the two parties, the assailant was gone.

⁷⁶ "Arrested protester complains about inhumane treatment", P08, *Metropolis Daily*, 8 December 2014.

⁷⁷ "Over 1000 protesters surround government headquarters, Clashes erupt with 40 arrested", P08, *Headline Daily*, 8 December 2014.

⁷⁸ "HKU student sustains head injuries from baton, Police sends him to hospital in 3 Hours", A04, *Apple Daily*, 5 December 2014.

⁷⁹ *Ibid*

⁸⁰ "Secondary school student campaigning for class boycott loses a tooth after assault", *Apple Daily*, 26 September 2014.

The victim did not need to be taken to hospital. Social welfare organization staff group denounced the act of violence and expressed strong disapproval of police partiality in law enforcement. They urged the police to maintain law and order solemnly and not to wink at violent acts.⁸¹

- On the night of 1 October, a secondary school student was pushed and shoved to the ground by a counter-protester. The student had suffered an injury previously when police used tear gas on the protesters. He was wearing a neck brace when the attack took place, which left him feeling numb in the lower half of the body. He was taken to hospital on an ambulance.⁸²
- On 6 October, a Form Six student surnamed TSUI, a member of the Territory-wide Class Boycott Alliance, was assaulted by a security guard in a shopping mall. The student was campaigning in Tseung Kwan O for class boycott. He had an argument with the guard about the hanging of a banner, and the guard threw an arm around his throat. LAM, a 26-year-old university student, tried to stop the guard but was also attacked and injured. Two members of the Alliance suffered injuries from being grappled around the neck and were taken to hospital. Police arrested the security guard to help investigation.⁸³
- In mid-October, TSANG Shu-wo, Yuen Long District Councillor and Ping Shan Rural Committee Chairman, was seen in a civilian-shot video as participant of a mob assault. TSANG was distributing anti-Occupy flyers when he joined several others from the “Blue Ribbon” camp in attacking a young man who had hurled a flyer to the ground. The video clearly shows TSANG kicking the young man, hitting him on the head and cursing at him in foul language.⁸⁴
- On 23 November, around 3 p.m., members of two student bodies, Scholarism and Secondary Students’ Political Reform Concern Group, were molested and attacked on the pedestrian walk of Wang Tau Hom South Road. They had set up a street booth opposite Lok Fu Centre and were handing out promotion pamphlets. MA Lai-mei, Chairperson of the Lok Fu Merchants’ Association, and Member of the Shantao City Committee, CPPCC (Chinese People’s Political Consultative Conference), arrived with the others and had a dispute with the students. In the chaos, a local resident was assaulted. A policeman said that MA had inflicted injury on the other and had to be arrested. MA struck the policeman once on his head, causing him to topple over. Many police officers came and cordoned off the scene for investigation. MA was arrested for alleged fighting in a public place.⁸⁵

(b) Mong Kok Occupy Site

- Between the night of 3 October and the dawn of 4 October, six cases of conflict broke out, according to the police. Yet there were minor clashes throughout the period leading to many injuries. The police officers on site did not perform their duties. They either asked protesters to report the cases themselves, or led assailants away from the scene.⁸⁶

⁸¹ “Anti-Occupy man attacks distributor of flyers”, A03, *Apple Daily*, 2 October 2014; “‘Occupy Yuen Long’ causes discontents, Residents urges immediate ‘clean-up’”, A08, *Wen Wei Po*, 2 October 2014.

⁸² “Ruffians use box cutters on students”, A04, *Apple Daily*, 5 October 2014.

⁸³ “Secondary student assaulted while promoting class boycott”, A10, *Sing Tao Daily*, 7 October 2014.

⁸⁴ “Yuen Long District Councillor beats up Pro-Occupy man”, A10, *Apple Daily*, 5 December 2014.

⁸⁵ “Motley Battalion strikes at dual student bodies in various districts, CPPCC woman subdues policeman with a single blow”, A01, *Apple Daily*, 24 November 2014; “‘French Bloke’ charged for criminal damage in the attack on LegCo case,” *Oriental Daily*, 25 November 2014.

⁸⁶ “Dark night in Mong Kok: face-off, mad run, kisses,” “On-the-Spot Photo Album,” the News, Instant News, *Ming Pao*, 5 October 2014.

- On 3 October, many confrontations took place in the Mong Kok protest site between 2 and 8 p.m. An anti-protest group chased after the protesters to “strike at whoever in the way.”⁸⁷ Tens of counter-protesters let their emotions run high, some tearing down pro-democracy tents by force. They pushed and shoved onlookers and reporters as they moved. A protester felt sick and fainted from being jostled, and was immediately taken to a tent to rest. An ambulance arrived later to carry the injured away. Protesters who stayed on were beaten by the anti-protest group. An onlooker with first-aid training bore witness to a student being attacked. When he stepped forward to help the student, who was bleeding with a broken nose, he was pushed away by a policeman. He called the police hotline to request for an ambulance. When an ambulance arrived, however, it was waved down at Mong Kok Road. It was reported that at least two people suffered injury in the head.
- A man surnamed WONG formed a human chain with the others by joining hands. Policemen also tried to intervene. But the anti-protest group suddenly took to violence. WONG, being in the forefront, suffered a blow and bled in the lower lip. He was also hit thrice at the back of his head, and his glasses flew off during the attack. He had to be taken to hospital for treatment.
- Mr SHUN saw a group suddenly charging out of the Mong Kok protest site, sinking their fists in people along the way. He joined several protesters to subdue a member of the group. In the chaos, he was hit in the head by a cell phone, scratched and wounded; his glasses went flying in the air. Subsequently taken to hospital, he said in anger, “The police saw it all and yet chose to do nothing!”
- At around 6 p.m., a student of Hong Kong Shue Yan University in the rally suffered bleeding in the corner of the eye and was sent to hospital.⁸⁸
- That night saw six counts of citizens’ self-initiated actions against the alleged release of trouble-makers by the police. Around 1 a.m., protesters became dissatisfied with the police for not arresting those said to have used violence earlier. They walked closely after the policemen, and the latter withdrew into the Mong Kok Police Station and pulled the iron gates shut. They shot pepper spray from within trying in vain to disperse the crowd. The protesters said the police had given no warning before spraying pepper on them.⁸⁹ After 2 a.m., over a hundred people were stalking the policemen, scolding them for not arresting the assault suspects. There was much shoving and pushing. More and more policemen were deployed to the scene. They spread out in a formation, standing in lines and facing the protesters. The atmosphere of the stand-off was tense.⁹⁰ A reporter of Hong Kong In-media made a round in another part of the protest site and did not come across any policemen. The only two encountered were heading toward Yaumatei, their backs turned on the protest site. When asked to maintain order at the protest site, they said they had to go elsewhere and told the citizens to call the police hotline themselves.

⁸⁷ “Frequent clashes in Mong Kok leave many injured, Police criticized for turning a blind eye (21:06)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Standing crowds fill Nathan Road, Police says personal safety the prime concern” (18:53), the News, Instant News, *Ming Pao*, 3 October 2014; “Police at loudspeaker: protesters a threat to public order” (22:09), the News, Instant News, *Ming Pao*, 3 October 2014; “Clashes break out in Mong Kok, protesters feel unwell and taken to hospital” (17:24), the News, Instant News, *Ming Pao*, 3 October 2014; “My own Mong Kok, my own business to save: chase out the thugs”, A02, *Apple Daily*, 4 October 2014; “HKFS suspends dialogue with Government, anti-protesters’ attempt to clean up triggers clashes”, A01, *Hong Kong Daily News*, 4 October 2014; “Mong Kok On-the-Spot (14:10)”, *inmediahk.net*, 4 October 2014; “Mong Kok On-the-Spot (10:42)”, *inmediahk.net*, 4 October 2014.

⁸⁸ “Passer-by in tears: Police are indifferent to our safety”, A05, *Apple Daily*, 4 October 2014.

⁸⁹ “October 3 Report from Civil Police Watch”, A22, *Hong Kong Economic Journal*, 10 October 2014; “Gates drawn at police station and pepper spray used to disperse crowd”, A32, *Hong Kong Economic Times*, 6 October 2014.

⁹⁰ *Ibid.*

- LAU, a student who volunteered to act as a protest patrol, said he was assaulted by six masked men, one of whom grappled him in a chokehold. He hit back in self-defense, but when policemen arrived, they shouted at him: “Back off! Make no trouble!”⁹¹
- On 4 October, the Chief Executive of Hong Kong LEUNG Chun-ying made a televised speech admitting that from afternoon till night on 3 October, mass confrontations between the “Occupy Movement” camp and the “Anti-Occupy Movement” camp took place, leading to very chaotic situations and causing numerous injuries that involved employees of the news media.⁹²
- On 4 October, scuffles of massive scale continued to happen in Mong Kok, leaving many injured.⁹³ The police said that they had only used their batons once and the pepper spray once. A victim of indecent assault was injured in the back of her hand and was taken to Kwong Wah Hospital.⁹⁴ Various media estimated that a dispute took place every one to two minutes.⁹⁵
 - A surgeon from a public hospital was attacked by eight to nine mobsters. He was beaten, kicked, and hit on his back with iron bars, badly injured and traumatized. Dr MO was immediately taken to hospital. He suffered four wounds in the head, bruises on the back, and injuries in the legs. He needed to rest for a week.
 - A first-aider said, “The first man was kicked in the groins. He was found to be all right, and he stayed on in the protest site. The second man was a young student, who was in a more serious condition. His was hit in the corner of his eye by a hard object and was bleeding badly. He was examined by a doctor at the first-aid booth and had to be taken to hospital immediately. We were surrounded by counter-protesters, who refused to let the medical team leave. It was only after much commotion that the victim was escorted away. The third was also a man, who was wildly hit in the head by counter-protesters and was feeling dizzy. After medical examination and simple treatment, he remained in the protest site.”⁹⁶
 - Lawyer LAM Yiu-keung said on his Facebook that protesters who had been badly beaten by counter-protesters were arrested - “A man mauled up by triad gangsters was wounded in the head and bleeding. Most of the gangsters have not been arrested. The man is just done with the stitches on his head but, what irony, he’s now being taken to the Mong Kok Police Station for fighting in a public place! Whereas the thugs who did the violence, the triad rascals, were arrested and released in the same breath! –feeling helpless, at Mong Kok Police Station.”⁹⁷
 - A man in a brown uniform casually took out an iron bar and waved it at the crowd guarding the Occupy barricades. The policemen who had been there just a few minutes before suddenly withdrew. Now there was no one to keep watch on the scene of violence.⁹⁸
 - HUNG Pak-kei was attacked by a gang. Blood streamed down from a head wound after he was struck many times by what looked like a long bar. His wound had to be sewed up with four stitches, yet he was arrested for fighting in a public place. The attack began when a man suddenly grabbed at his shirt and kicked him in the chest. When HUNG ran after the man to reason with him, HUNG was pushed and slapped by about ten other men. HUNG

⁹¹ “Passer-by in tears: police are indifferent to our safety”, A05, *Apple Daily*, 4 October 2014.

⁹² “Chief Executive’s televised speech (Chinese Only)”, *News.gov.hk*, 4 October 2014.

⁹³ “[Occupy Mong Kok] Police increase presence and use batons and pepper spray”, *inmediahk.net*, 5 October 2014.

⁹⁴ “Thugs condemned for defying laws human and divine”, A06, *Ming Pao Daily*, 5 October 2014.

⁹⁵ “Mong Kok riot intensifies with a stand-off between two camps involving 1000 people, Sharp tools used to dismantle barricades”, A06, *Sing Tao Daily*, 5 October 2014.

⁹⁶ “He himself has offered help to three injured people”, *Mong Kok Community Solidarity—On-the-spot Report of Occupy Mong Kok*, 4 October 2014.

⁹⁷ “Protesters assaulted are arrested”, *inmediahk.net*, 4 October 2014.

⁹⁸ “Mong Kok On-the-Spot (18:09)”, *inmediahk.net*, 4 October 2014.

and his first assailant both toppled over, the two tangled up as they fell. A man in black struck HUNG at least thrice in his head with a bar-like object, which caused HUNG to bleed. This attacker then withdrew, but the other thugs gave HUNG a few more blows. Several citizens came forth and pulled HUNG up from the ground, and the police appeared only then. When HUNG was in the ambulance, the police said he had assaulted the others. After being treated in Kwong Wah Hospital, HUNG was taken to Mong Kok Police Station and charged with fighting in a public place.⁹⁹

- Injured students appeared one after the other, seeking help at the first-aid booth near Shanghai Commercial Bank. Among the many injured, at least three were wounded by utility knives. A volunteer first-aider said, “They were just sitting or standing there, and someone passing by cut their skin open with a box cutter. It was terrifying.” Most students were injured in the arm. One had suffered two cuts on the arm.¹⁰⁰
- At 8.30 p.m. on 7 October, a citizen was on the way to the Mong Kok site to show support for the protest. At the Argyle Street junction, the citizen was attacked by a man in a green top with a razor blade. He suffered two cuts, one of which over two centimetres long. He was in good condition after treatment and the case was followed up by the police on site.¹⁰¹
- On 12 October, a private car hit a taxi in Mong Kok. According to Mr LO, driver of the taxi, after the first hit, the private car made two more deliberate strikes and then attempted to flee. The protesters immediately encircled the private car to stop it from leaving. The driver maneuvered the car and charged at the crowd trying to disperse it. This angered the protesters, and the police took action only later. The private-car driver was subsequently led away by the police.¹⁰²
- On 24 October, protesters were again attacked by counter-protesters. Masked men hit and kicked at people around them, and one of them even scooped up a bicycle on the roadside and hurled it at the Occupy protesters. The policemen on site did not intervene, causing angry protesters to shout out “Dark police” and “violence conniver.”¹⁰³
 - NG Man-yuen, Vice-Chairman of League of Social Democrats, was attacked in Dundas Street. He was hit in the head with a baton, and one of his fingers was wounded and bled. A ruffian kicked NG in the stomach and then swung his right fist at NG’s left temple. NG pointed out the attacker to the policemen on-site, but none took any action except to arrange for the examination of NG’s wounds in the hospital.¹⁰⁴

(c) Clashes in Causeway Bay

- At 6 p.m. on 3 October, over ten masked men had a dispute with the protesters near the iron barricades outside Sogo Department Store in Causeway Bay.¹⁰⁵ The masked men then escaped in the direction of

⁹⁹ “Citizen beaten by mobsters is charged with assault”, A04, *Apple Daily*, 5 October 2014.

¹⁰⁰ “Thugs attack students with utility knives”, A04, *Apple Daily*, 5 October 2014.

¹⁰¹ “Police arrest 39, Mong Kok gangsters unhappy that Occupy drives out business fight back”, P10, *Headline News*, 8 October 2014.

¹⁰² “Mong Kok On-the-spot (04:27)”, *inmediahk.net*, 12 October 2014.

¹⁰³ “Masked gangsters brutally dismantle barricades, Police slow to take action”, A02, *Apple Daily*, 25 October 2014.

¹⁰⁴ *Ibid.*; “Radical clearance of barricades in Mong Kok with 200 policemen holding back affray, Burly man in black flings a bicycle and wooden planks”, A04, *Sing Tao Daily*, 25 October 2014.

¹⁰⁵ “Masked gang clashes with protesters at SOGO in Causeway Bay” (19:29), the News, Instant News, *Ming Pao*, 3 October 2014; “Scuffles break out as counter-protesters set to clear barricades” (13:22), the News, Instant News, *Ming Pao*, 3 October 2014; “Protesters: Sources indicate triad elements are heading for Causeway Bay” (19:07), the News, Instant News, *Ming Pao*, 3 October 2014; “Mong Kok and Causeway Bay strongholds lost, Counter-protesters ‘sweep

Jardine's Bazaar. Some caught up with the masked group and pushing occurred between the two parties. A man was slapped and struck and was injured. Reporters of the Hong Kong In-media found that the same man had been taken away (by the police) thrice, but was still stirring up trouble in the street. He was found to have been arrested by Nam Kee Noodle Shop in Yee Wo Street, then at Exit E of Causeway Bay MTR Station, and finally near HSBC Centre on Yee Wo Street. The reporters concluded that it was evidence that the police connived at violence.¹⁰⁶

- LAU, a second year student of Physics from the Hong Kong University of Science and Technology, was injured while on patrol duty at the site. He was encircled by five to seven people and grappled around the neck.¹⁰⁷
- A part-time teacher of Shue Yan University's Department of Journalism and Communication was attacked when he walked by Jardine's Crescent, causing his glasses to fly off and leaving his left eye swollen.¹⁰⁸

m1.1.4 Delay of rescue and assault on medical volunteers

- On 26 September, during the Civic Square incident, a police officer and a student protester with a heart problem were sent to hospital, both having to be carried on a stretcher. Off the Central Government Offices, on either sides of the gate outside the Legislative Council, there were altogether three layers of human chains formed by police officers on guard. It was only after 15 minutes of disturbance that the police allowed the sketchers to get through. The Hong Kong Federation of Students queried why the police had refused to open the gate so the ambulance could get through and come to the rescue of the needy.¹⁰⁹
- On 28 September, the Occupy Central Medical Team issued a solemn declaration criticizing the police of jeopardizing rescue efforts. Medical volunteers said the police had intentionally hindered on-site emergency treatment of the injured. It also said it was outraged and could not understand why police would use tear gas on volunteers inside the first aid booths, stop medical workers from entering into the area, and expel those already inside.¹¹⁰
- On 28 September, the Federation of Students' Vice Secretary General Lester SHUM was kept in the custody room in Wong Chuk Hang's Hong Kong Police College. A police officer forbade SHUM from taking antibiotics and fever-relief medicine, claiming he did not know if SHUM's drugs were illegal drugs. Even after the College's physician had given the permission, the officer still would not let SHUM take the

the field' and sparks bloody scuffles", A04, 4 October 2014.

¹⁰⁶ "Causeway Bay On-the-Spot: Counter-protesters thrice arrested and thrice released by police (2:19)", *inmediahk.net*, 4 October 2014.

¹⁰⁷ "Tens of masked men beats protesters and dismantle barricade in Causeway Bay", A17, *Hong Kong Economic Times*, 4 October 2014.

¹⁰⁸ "Passer-by in tears: Police are indifferent to our safety", A05, *Apple Daily*, 4 October 2014.

¹⁰⁹ "Class boycott ends in conflicts: Joshua Wong arrested and secondary school students hit by pepper spray", A02, 27 September 2014; "Students storm civic square and strife erupts, police subdue 200", A08, *Hong Kong Economic Journal*, 27 September 2014; "Joshua Wong arrested and four hospitalized including students and policemen, Class boycott incites violent barge-in at Central Government Offices", A01, *Oriental Daily*, 27 September 2014; "HKFS raids Central Government Offices 'in preparation for Occupy Central'", A04, *Hong Kong Economic Times*, 27 September 2014; "Police refusal to open gates delays cure of student with discomfort in the heart", A02, *Ming Pao Daily*, 27 September 2014.

¹¹⁰ "Medical personnel decry police for deferring rescue and disrespecting lives" (13:15), the News, Instant News, *Ming Pao*, 29 September 2014; "Police repeatedly use tear gas at first-aid booths, says medical volunteer" (13:08), the News, Instant News, *Ming Pao*, 29 September 2014.

medicine. SHUM was subsequently transferred to the Western District Police Station, where the police officer even sealed up the medicine bag.¹¹¹

- On 3 October, around 6 p.m., a citizen with first-aid training in Mong Kok bore witness to a student being struck and injured in the nose. He went forth to offer help but was shoved off by police officers. He called the police and sent for an ambulance, which was intercepted at Mong Kok Road.¹¹² A part-time teacher of Shue Yan College's Department of Journalism and Communication was beaten by ruffians when he walked by Jardine's Bazaar. His left eye became swollen in the attack. He sought help from the police on site, but only got sent to hospital an hour later.¹¹³
- On 26 and 27 November, police officers delayed medical help to the protesters in need. LAU Man-cheong said he was kicked and injured by police officers but was detained for two hours before an ambulance took him to Kwong Wah Hospital.¹¹⁴
- On 1 December, twice in the morning, the police tried to expel medical professionals. At least 16 paramedics and 33 first-aid volunteers were injured¹¹⁵. Dr AU Yiu-kai, Convener of the Occupy Central Medical Team, was stopped by police officers when he was tending the wounds of a bleeding person. A police officer pointedly said he would arrest AU all the same even if he was treating the injured.¹¹⁶
 - Dr AU said he was about to dress the head of an injured protester. "A police officer kept striking with his baton to drive us away," said AU. "He would not let us help the injured. I myself was not hurt, but I said we've got an injured person here. The other [policeman] took his 'cam' [video-recorder] and tried to throw me out. Another [policeman] grabbed me and said, 'Big deal curing? Arrest's arrest!'" The injured protester then suffered many more strikes of the police baton.
 - A first-aid volunteer was conducting medical examination on a plainclothes policeman, who seemed to have fainted in the lobby of Admiralty Centre. Without checking what was going on, another policeman flung his fist at the volunteer from behind. The volunteer was injured.
 - 1 December saw another case of police ignoring protesters' injuries and delaying treatment. Samuel, a 19-year-old student of the Hong Kong University, was trying to pull back a woman protester who was being dragged out by the police officers in front. A police officer removed Samuel's hamlet and struck thrice with a baton. Samuel took two hits in the head and blood dripped all over his face. He lost balance and fell over, and was dragged on the floor and arrested. The police gave him only a wad of cotton. "It was for me to press on the wound myself. Soon my entire hand was red with blood." He kept asking to see a doctor,

¹¹¹ "Police forbid Lester Shum from taking fever relief medicine", A13, *Apple Daily*, 30 September 2014.

¹¹² "My own Mong Kok, my own business to save: chase out the thugs", A02, *Apple Daily*, 4 October 2014; "HKFS suspends dialogue with government, Counter-protesters' attempt to clean up triggers clashes", A01, *Hong Kong Daily News*, 4 October 2014.

¹¹³ "Passer-by in tears: police are indifferent to our safety", A05, *Apple Daily*, 4 October 2014.

¹¹⁴ "Two Mong Kok citizens accuse Tsang Wai Hung and police force of abuse of force and seeks compensation" (13:30), the News, Instant News, *Ming Pao*, 17 January 2015; "Man and woman each demands a HK\$10,000 compensation for alleged beating and sexual assault by police officers", A14, *Hong Kong Economic Journal*, 19 January 2015.

¹¹⁵ "Medical volunteer: condemn power abuse by police, Number of volunteers on the increase (16:02), the News, Instant News, *Ming Pao*, 2 December 2014; "Police beat off first-aiders and beat up the injured, says doctor remaining on site", A22, *Hong Kong Economic Times*, 2 December 2014; "61 sent to A&E, highest number since the Occupy Movement, Protesters shed blood, 17 police officers injured", *Sing Tao Daily*, 2 December 2014.

¹¹⁶ "Volunteer doctor: chased off by police even when treating the injured (08:42)", the News, Instant News, *Ming Pao*, 1 December 2014; "Police beat off first-aiders and beat up the injured, says doctor remaining on site", A22, *Hong Kong Economic Times*, 2 December 2014; "Hong Kong Shield says system of monitoring police has collapsed, independent committee is called for to investigate cases in the Umbrella Movement," *inmediahk.net*, 9 December 2014; "Medical volunteers' statement against police's use of excessive force," *inmediahk.net*, 2 December 2014.

but the police turned a deaf ear. It was not until 2 a.m. that he got sent to the hospital and received two stitches for the head wound.¹¹⁷

- Meanwhile, medical personnel performing first-aid duties on Lung Wo Road were also injured by the police. Medical volunteers trying to offer help to police officers who had fallen over suffered three strikes of the baton before they could get near the wounded and help.¹¹⁸
- Independent first-aid Mr LEUNG was offering medical help to the injured on Lung Wo Road. He tried to help an injured person with breathing difficulty and slowing heart beat to get up to the curb. "I myself didn't walk up the curb fast enough and I suffered a baton strike on my back." LEUNG stressed the point that he was wearing a reflective vest which showed clearly he was a medical personnel. But a police officer said, "We've never asked for your presence here. All who are here are protesters."¹¹⁹
- When tending to the wounds of an injured person, a first-aid volunteer suffered baton strikes on the neck and the back that led to muscle tears, and was hospitalized.¹²⁰

1.1.5 Police's use of violence or connivance at violence against journalists

During the Occupy period, as many as 30 journalists were subjected to violence. In November, several unions of media workers had a meeting with the police, but the discussion did not bring any improvement of the situation. Hong Kong Journalists Association said they had grounds to believe that police intimidation was a deliberate measure to stifle legitimate press coverage. By jeopardizing the public's right to know, police could carry out their clearance operations without effective media monitoring.¹²¹

[Case] On 5 October, at around 3:10 a.m., police drew a defense line by forming a human chain on the intersection of Shanghai Street and Shantung Street. Pushing and jostling occurred between the police and the protesters. During the clash, a police officer suddenly bore down on a journalist after the latter had identified himself. The officer pelted himself at the journalists and citizens nearby. Two journalists of Hong Kong In-Media and several citizens were toppled to the ground, which created a big commotion. Mr D, one of the In-media journalists, revealed his identity while covering the protest, and was "crazily bucked" and thrust to the ground by the police officer. His legs were stepped on by the officer and several citizens, and he had an obvious bruise on his left calf. Protesters had to carry him and his colleague away so they would not be arrested by the police.¹²²

- In the early hours of 4 October, a Ming Pao news reporter was covering the protest from the footbridge leading to the Central Government Offices, when he was elbowed in the chest by two or three plainclothes policemen. The reporter suffered bruises and pain in his left chest. At the same spot, RTHK reporter TSUI Man-kit was allegedly hit by a plainclothes police officer with a retractable baton. TSUI suffered an injury to his waist¹²³.

¹¹⁷ "HKU student suffers baton strike in the head, Police wait three hours to take him to hospital", A04, *Apple Daily*, 5 December 2014.

¹¹⁸ "Female student with neck injury rebukes police for abuse of power", A08, *Apple Daily*, 9 December 2014; "Independent Police Complaints Council plans to monitor clearance of Admiralty occupy site", *Sing Tao Daily*, 9 December 2014.

¹¹⁹ "Female student with neck injury rebukes police for abuse of power", A08, *Apple Daily*, 9 December 2014.

¹²⁰ "Independent Police Complaints Council plans to monitor clearance of Admiralty occupy site," *Sing Tao Daily*, 9 December 2014.

¹²¹ "Vexed by days of arrest and attack of journalists, Five news organizations file a collective report with the police", A02, *Hong Kong Daily News*, 29 November 2014.

¹²² "[Occupy Mong Kok] Police increase presence and use batons and pepper spray", *inmediahk.net*, 5 October 2014; "Police brutality against journalists" (07:43), *inmediahk.net*, 5 October 2014.

¹²³ "Thugs condemned for defying laws human and divine", A06, *Ming Pao*, 5 October 2014.

- On 3 October, at least 9 journalists were injured or molested by counter-protesters in the Mong Kok street clashes.¹²⁴ According to the Hong Kong Journalists Association, certain police officers on the front line used violence on journalists who had identified themselves, striking the journalists with a baton or kicking them to stop them from doing their reporting job.¹²⁵ As of 4 October, the Association had received reports of at least 5 journalists being attacked when covering the protest.¹²⁶
 - The Association said it had received report that a woman journalist was attacked by a man, who struck her arm with a hard object. She had reported the case to the police and would have her injury examined.¹²⁷
 - A woman intern journalist rushed out of a crowd in tears, saying she had been punched in the forehead by a counter-protester while video-recording the protest. She repeated the question, “I was just filming. Why did they beat me?” She had already reached the police’s line of defense, but the police officers gave no response. It was only when she made it to the outskirts of the police’s defense line that a police inspector escorted her away.
 - Numerous people were hit by counter-protesters with water bottles. The victims included a woman reporter of RTHK, a journalist of an English newspaper, and a journalist of Apple Daily. One was toppled to the ground.¹²⁸
 - A journalist had her camera lens unscrewed and the camera flash hit off by counter-protesters. She was also kicked in the leg and suffered bruises.¹²⁹
 - A man of unknown identity (in a white top and wearing glasses) attacked a journalist and then pushed and pelted at the citizens. The journalists on-site all rushed up to encircle the man. A citizen showed his wounds to a police officer.¹³⁰
 - On 3 October, numerous journalists were attacked and complained to the police, but to no avail.
 - A reporter of an English newspaper said he took the hit of a water bottle pitched at his forehead. When he lodged a complaint with a police officer on-spot, demanding that the case be put on police record, he was told that there was nothing the police could do to help.¹³¹
 - A journalist was filming counter-protesters in a fight from behind the police’s human chain. A middle-aged man rushed up to the human chain and swung his fist at the journalist. The journalist stepped back, but the officers forming the chain were indifferent. The journalist asked the officer beside him, “Sir, why didn’t you do something?” The officer gave no reply.
- On 4 October, journalists were attacked again.
 - Erik MAK Ka-wai, RTHK’s journalist of the TV division, was filming the protest in Mong Kok at around 1 p.m. A middle-aged man who was hurling abuse at the protesters tried to obstruct his work by pushing his camera away. When MAK revealed his journalist identity, the man punched him twice, leaving him injured in the left eye and the nose. MAK’s glasses were also knocked off and his camera smashed.¹³²

¹²⁴ “Woman reporter attacked with a hard object calls police”, A03, *Ming Pao*, 4 October 2014; “Woman intern reporter complains of fist attacks in tears, Police show no response”, A08, *Apple Daily*, 4 October 2014.

¹²⁵ “Hong Kong Journalists Association: Police violence to impede reporting not acceptable (15:49)”, the News, Instant News, *Ming Pao*, 4 October 2014.

¹²⁶ “Counter protesters attack Hong Kong and Taiwan reporters”, A02, *Sing Pao*, 5 October 2014.

¹²⁷ “Woman intern reporter complains of fist attack in tears, Police show no response”, A08, *Apple Daily*, 4 October 2014.

¹²⁸ *Ibid.*

¹²⁹ *Ibid.* “Woman reporter attacked with a hard object calls police”, A03, *Ming Pao*, 4 October 2014.

¹³⁰ “Mong Kok On-the-Spot (0:45)”, *Hong Kong In-media*, 4 October 2014.

¹³¹ *Ibid.*

¹³² “Thugs condemned for defying laws human and divine”, A06, *Ming Pao*, 5 October 2014.

- Hong Kong Journalist Association confirmed the reports that two journalists, a reporter each from U Magazine and South China Morning Post, and a freelance writer had been assaulted while covering the protest. Among them, four had clearly shown their journalist identity by wearing their journalist identification and donning a reflective vest. This was deemed sufficient to rule out the possibility of the assailants' ignorance of the journalists' identity and injuring them by mistake.¹³³
- At 4:30 pm, CHAN, an Apple Daily reporter, was filming counter-protesters off the HSBC in Mong Kok. Someone suddenly got agitated and punched CHAN in the chest. The reporter felt very sick and visited Kwong Wah Hospital on his own for treatment. A group of police officers once encircled the ruffian, but was believed to have put nobody under arrest. Up until nighttime, police had not contacted CHAN for a statement on the attack.¹³⁴
- According to Chief Superintendent Steve HUI Chun-tak of the Police Public Relations Branch, a total of 10 journalists were injured on 3 and 4 October, with one man charged for assaulting a journalist.¹³⁵
- On 12 October, a man who said he was a journalist from Singapore was reported to have been hit by the police with a retractable baton and suddenly fell to the ground with an epileptic attack. His cramps sustained and he was taken to hospital for treatment.¹³⁶ A man named James, who said he was a reporter of an independent news media in Korea, told his story in English mixed with Cantonese how he was hit by police's retractable baton.¹³⁷
- In the early morning of 16 October, protesters stormed Lung Wo Road, suddenly dashing out to the carriageway. Numerous photo-journalists were beaten and injured by the police when the latter tried to chase them off. A police officer, after using pepper spray on a journalist, said, "Journalist? So What? Journalist's not the king!"¹³⁸
- On 18 October, a reporter of Oriental Daily was on reporting duty when told by a police officer to step back. The reporter shouted, "I'm a journalist. Stay calm." The officer did not heed his words, but shot pepper spray straight into his face.¹³⁹
- On 25 October, the three Anti-Occupy groups "Blue Ribbon Movement," "Alliance In Support of Our Police Force" and "Justice League" held a candlelight vigil in Tsimshatsui to show support of police maintenance of order and clearance of the occupy sites. During the rally, at least 4 reporters and cameramen of TVB and RTHK were assaulted. Numerous police officers were on site, but initially no one was put under arrest.¹⁴⁰

¹³³ *Ibid.*

¹³⁴ "Reporter assaulted at work, RTHK news anchor wounded in the eye", A10, *Apple Daily*, 5 October 2014.

¹³⁵ "Ten reporters attacked and wounded", P10, *Metro Daily Hong Kong*, 6 October 2014.

¹³⁶ "Ruffians unleashed in Mong Kok: man arrested for kicking officer draws 100 to encircle police station", A01, *Sing Pao*, 13 October 2014; "Dark night brews scuffle as drugged driver assaults officer in Mong Kok, Limousine hits taxi thrice and police breaks window to arrest driver", P04, *Sky Post*, 13 October 2014; "Mong Kok On-the-Spot (02:36)", *inmediahk.net*, 12 October 2014.

¹³⁷ "Mong Kok On-the-Spot (02:36)", *inmediahk.net*, 12 October 2014.

¹³⁸ "A reporter's tears and blood in one month of Occupy Movement", P26, *Metro Daily Hong Kong*, 28 October 2014.

¹³⁹ *Ibid.*

¹⁴⁰ "Four reporters assailed by participants of pro-police rally but no one is arrested, RTHK will temporarily refrain from covering activities of the organizations concerned", A03, *Ming Pao*, 26 October 2014; "Blue ribbon protesters launch mob attack on four reporters", A02, *Apple Daily*, 26 October 2014; "Many reporters beaten at pro-police rally", A06, *Oriental Daily*, 26 October 2014; "Media jointly condemn blue ribbon's violence on reporters, Police arrest a Chinese herbalist", A04, *Apple Daily*, 27 October 2014; "Four reporters injured at gathering of Blue Ribbon camp, Radio HK suspends coverage on all Blue Ribbon activities", *inmediahk.net*, 25 October 2014.

- Participants of the rally closed in on the TVB reporter and two cameramen and punched and kicked them. In the mayhem, a woman jerked the camera off from the TVB cameraman, who sought help from the police. POON Kwok-fai was injured in the right elbow, shoulder and back. SIN Chi suffered scratches on his waist, back, and ribs, his glasses wrenched off, and his tie yanked and torn. All three suffered bruises on their back and scratches on the corner of the eyes.
- RTHK part-time journalist WONG Wing Yin said she was on reporting duty when pestered by a rally participant, who tried to snatch her journalist identity card and backpack, and who shoved her to the ground. In the confusion, she was kicked in the waist by several people and suffered bruises. Her earphones were also damaged. When she tried to break free from the ambush, someone heaved a loudspeaker at her, which was fortunately intercepted by someone else. There were also people clearing the way for her. When she ran toward the Hong Kong Cultural Centre trying to take shelter there, rally participants chased after her.¹⁴¹
- On 6 November, when the police pressed forth its line of defense, a woman reporter was hit with pepper spray and shove to the ground. “A police officer stepped on my right leg and I could not get up. Another officer stamped on my cell phone. When I finally found my phone, I took another trample from a third officer.”¹⁴²
- On 25 November, a member of Now TV’s news crew was pushed to the ground by the police and suffered multiple injuries. This happened when LI, the technician, was carrying out reporting duties. A police officer claimed that he had been hit by the aluminum ladder that LI was carrying. LI was arrested for allegedly “assaulting the police.” Journalists who tried to negotiate with the police were brutally shoved off. A video shot by Ming Pao shows that at least four police officers charged at the technician trying to seize the work ladder. LI was forcibly arrested, but was released unconditionally later that night.¹⁴³
- On 27 November, Apple Daily cameraman WONG Chun-lung was arrested. His right wrist was sprained and he suffered scratches on the left leg. WONG insisted that when he was arrested he was doing regular filming and had not hit the police officer with his camera.¹⁴⁴
- On the night of 27 November, WANG Ning, a reporter of New Zealand Asia TV, was suddenly attacked by police officers while doing his reporting duty. He was held down on the ground, beaten and kicked. He suffered injuries in his knees, back and shoulders, and was taken to hospital.¹⁴⁵

¹⁴¹“Four reporters assailed by participants of pro-police rally but no one is arrested, RTHK will temporarily refrain from covering activities of the organizations concerned”, A03, *Ming Pao*, 26 October 2014; “Blue Ribbon protesters launch mob attack on four reporters”, A02, *Apple Daily*, 26 October 2014; “Many reporters beaten at pro-police rally”, A06, *Oriental Daily*, 26 October 2014; “Media jointly condemn blue ribbon’s violence on reporters, Police arrest a Chinese herbalist”, A04, *Apple Daily*, 27 October 2014.

¹⁴² “Mong Kok’s night of darkness: flashlight brawl leads to 15 injured”, A04, *Apple Daily*, 7 November 2014; “After flashlight attack of police, masked gang try to block road, Clashes and disturbance erupt in Mong Kok and Central, Police arrest five”, A05, *Hong Kong Commercial Daily*, 7 November 2014; “Police arrest row-makers at Occupy Mong Kok site; Steve Hui [police spokesperson]: using flashlight on police means provocation”, P08, *Headline Daily*, 7 November 2014.

¹⁴³ “Clearance of barricades becomes dispersal and arrest, Protesters said to be illegally assembled and 80 are arrested”, A03, *Ming Pao*, 26 November 2014.

¹⁴⁴ “Apple Daily reporter arrested by police”, P10, *Metro Daily Hong Kong*, 28 November 2014; “‘Assaulted’ police officer seems to have hit video-cam when turning around”, A06, *Hong Kong Economic Journal*, 29 November 2014.

¹⁴⁵ “Apple Daily reporter arrested by police”, P10, *Metro Daily Hong Kong*, 28 November 2014.

1.2 Psychological trauma

During the Occupy Movement, there were over 707 cases requiring assistance (including calls received by hotline counseling services and cases received by outreach teams). Among them, at least 109 severe cases had to be followed up by the Critical Incident Team of the Hong Kong Psychological Society (Division of Clinical Psychology) and psychologists referred by the Red Cross.

[Case] On 30 November, a woman protester (Ms. E) was on Lung Wo Road outside the Chief Executive Office. When the police cleared the area, she retreated towards Central and encountered three police officers with shields and batons. In rough and coarse manner, they intercepted her and demanded her to give her identification number. She later left the area in the midst of chaos.

After the incident, she was panic-stricken at the sight of a police station or a group of police officers. When she was alone by herself or in quiet surroundings, she would have aural hallucination of police sirens. On one occasion, she vomited at the sight of a police car outside her home. She felt anxious and had difficulty breathing in crowded surroundings. She had frequent nightmares in which the police chased after her, and would wake up screaming.

1.2.1 Psychological trauma caused by use of tear gas by the police

The media told of citizens in shock and crying by roadsides. Some citizens immediately called home to notify family members of their safety. Some burst into roars of protest, “The police fired tear gas grenades recklessly”, “Students are not rioters”. They questioned why the police used tear gas. Demonstrators rearranged mill barriers to block the police from advancing. Many were emotionally aroused and seemed intent on overnight resistance. Tens of thousands of protesters remained in standoff with the police at midnight, refusing to leave.¹⁴⁶

Nearly 200 citizens required psychological counseling after the Occupy Movement. The Red Cross stated that some of those people had nightmares, exhibited anxiety and jumped at the slightest of sounds after experiencing tear gas attacks. Those cases had to be followed up by experts. Dr. Eliza CHEUNG, clinical psychologist of the Red Cross, said that after tear gas was deployed by the police, the injured citizens received by the first aid station at the Red Cross Headquarters were given immediate ‘psychological first-aid’. Many were crying in disbelief with regards to what they had seen and experienced.¹⁴⁷

The Hong Kong Red Cross and the Hong Kong Psychological Society counseled a total of 148 citizens. On 29 September alone, they counseled 94 and received 87 calls; and on 30 September, they counseled 61. The two organizations formed a joint ‘First Aid and Psychological Support Hotline’ on 29 September, offering psychological support to members of the public who felt emotionally disturbed by the events.¹⁴⁸ The cases that they received mainly concern:

- Worries about the safety of family members;
- Worries about the long-term impact of the incident on friends, family or oneself;

¹⁴⁶ “Tear gas deployed outside City Hall,” *Ming Pao*, 28 September 2014; “Police deploy tear gas multiple times; clearing of central demonstration grounds near completion”, A02 A03, *Sing Pao*, 29 September 2014; “Admiralty turns into battleground, Police deploy tear gas, Occupy demonstrators turn to Mong Kok”, A02, *Sing Tao Daily*, 29 September 2014.

¹⁴⁷ “Citizens have nightmares after tear gas attack”, A09, *Apple Daily*, 7 October 2014.

¹⁴⁸ “Red Cross at Admiralty handles 145 emergency cases”, A08, *Hong Kong Daily News*, 1 October 2014.

- Differences in political opinion with friends, family or classmates, leading to arguments and/or a feeling of isolation.

Protesters seeking assistance also exhibited anxiety, emotional unrest, as well as insomnia, loss of appetite, stomach aches, lethargy and difficulty in concentration.¹⁴⁹

The Hong Kong Federation of Youth Groups received 10 calls for assistance from primary and secondary school students. After seeing footage of the police using tear gas to disperse protesters, 4 primary school pupils felt “very scared and unhappy”.¹⁵⁰ The Teacher-Student Emotional Support Concern Group expressed concern that students who had participated in the assembly felt confused and uncomfortable, and could be on the verge of emotional collapse. Mr. CHOW, a member of the group and chief guidance counselor of a secondary school in Hong Kong, emphasized that the emotional problems of teachers must not be neglected. “Many teachers checked mobile phones continuously to keep track on their students around the clock. Some even visited their students at the protest grounds,” he said. Still, teachers had to go to work as usual and maintain a facade of calmness and control, leading to mental and physical fatigue.¹⁵¹

Many reports described protesters in shock, crying and expressing incomprehension

- A Form Six student, who was a member of Scholarism, was diagnosed with Post-Traumatic Stress Disorder after experiencing a tear gas attack. He frequently had nightmares, which would wake him every 15 minutes. Even though his condition improved, he was torn between his duties as a student and his duties towards the democratic movement. His parents were concerned that he had public examinations to prepare for. They believed that he should not participate in the students’ strike for too long. The case had to be followed up by the school’s guidance counselors.¹⁵²
- Two Form Three students, surnamed WU and YUEN, both participated in the student strike assemblies. They had not planned on occupying Central, but were angered by the forceful dispersion of protesters. Thus, they went back to Central and were coincidentally met with a tear gas attack. Even though they were 100 metres away from where the tear gas grenades were dropped, the smoke from the grenades induced tears and searing pain in their eyes. They were scared and stunned, as they had not expected to be treated ‘like terrorists’.¹⁵³
- A young protester was reduced to tears in fear. He criticized the police for ‘bullying’ citizens by treating the protesters as if they were thieves and bandits.¹⁵⁴

¹⁴⁹ “Red Cross offers counseling services to 148 persons disturbed by occupy demonstrations”, http://www.redcross.org.hk/tc/latestnews_events/latest_news_detail.html?id=2072

¹⁵⁰ “Students emotionally disturbed, Teachers form support groups, Primary four student disturbed by footage of tear gas deployment cries”, A06, *Ming Pao*, 7 October 2014.

¹⁵¹ “Students emotionally disturbed, teachers form support groups, Primary four student disturbed by footage of tear gas deployment cries”, A06, *Ming Pao*, 7 October 2014.

¹⁵² “Parents seek assistance from counselors, Mothers call for children to return home”, A04, *Oriental Daily*, 11 October 2014.

¹⁵³ “Police protect Tamar Central Government Offices as ‘Occupy Central’ becomes ‘Occupy Admiralty’, Demonstrations paralyze traffic, Citizens bring food and water in support of protesters”, A06, *Hong Kong Economic Journal*, 29 September 2014.

¹⁵⁴ “Tear gas, pepper spray, clampdowns – injured fill first aid booths as police forcefully disperse protesters, 26 hospitalized”, AAA3, *Apple Daily*, 28 September 2014; “Protesters loosely organized, Protest organizers repeatedly call on defence”, A06, *Hong Kong Economic Journal*, 29 September 2014; “Irate demonstrators protest against police ‘bullies’”, M02, *Hong Kong Daily News*, 29 September; “Reporter inhales fumes, faints”, A03, *The Sun*, 29 September 2014.

Police pressurized arrestees

- On 26 September 2015, a number of students were arrested for entry into the Civic Square. The Secretary-General of the Hong Kong Federation of Students, Alex CHOW, stated that the police pressurized apprehended students through various means, such as refusing to allow them phone calls, refusing to explain why bail was denied, and claiming that the police would search their homes.¹⁵⁵

1.2.2 Psychological trauma resulting from violence

Counselors stated that most cases received were of people seeking assistance for feeling disturbed, disconsolate, or suffering from insomnia after watching media coverage of the events. Clinical psychologists stated that many of the injured (i.e. protesters that experienced the violence first-hand) held differing political opinions from those around them, which negatively affected their social life. 80% of the 300 protesters and frontline police officers contacted by the Post-Crisis Counseling Network outreach teams suffered from various degrees of post-traumatic stress disorder.¹⁵⁶

Most citizens that had participated in the protests, or had witnessed scenes of violence through the media, were disturbed, concerned about their livelihoods, or fearful for their safety - so much so that the day-to-day lives of some were affected, the Caritas Family Support Centre found. The Post-Crisis Counseling network found that protesters, police officers and counter-protesters had such experiences, with students and teachers in particular.¹⁵⁷ Paulina KWOK Chi-ying, Supervisor of Caritas Family Crisis Support Centre, said that of the calls received, some were concerned with the financial losses suffered as a result of the protests, while some parents felt helpless in being unable to stop their children from participating in demonstrations. Some others were severely disturbed by media coverage of events, which triggered mood disorders.¹⁵⁸

An injured demonstrator protested, "The police just stood there and did nothing! [The counter-protesters] were very violent and some even kicked me. What could I have done? We protesters were beaten up by those counter-protesters and yet the police did not do their duty; they completely neglected our personal safety. Yes, the police didn't use force, but they were basically encouraging the use of force by the counter-protesters!"¹⁵⁹

On 3-4 October, there were numerous complaints made by women demonstrators against counter-protesters, for indecent assault, sexual harassment and verbal threats. Those demonstrators were traumatized; some doubted the ability of the police in bringing the criminals to justice.¹⁶⁰

The Red Cross stated that the demonstrations scared some elderly citizens because they were reminded of the riots they experienced at a young age. In addition, as the Occupy Movement affected the livelihoods of professional drivers, some of them admitted to having the irrational desire to run over protesters. Parents felt helpless after falling out with their children following arguments about the protest movement. Others suffered from insomnia, frequent nightmares, palpitations and hand tremors.¹⁶¹

¹⁵⁵ "Lester Shum denied antipyretics by police", A13, *Apple Daily*, 30 September 2014.

¹⁵⁶ "Approximately 300 citizens require post-crisis counseling", A07, *Wen Wei Po*, 29 October 2014; "80% demonstrators exhibit PTSD", A09, *Hong Kong Daily News*, 29 October 2014.

¹⁵⁷ "Police negotiators exhausted in defusing tensions: willing to repeat the same message, work longest shift of 26 hours", P10, *Sky Post*, 8 October 2014.

¹⁵⁸ "Hotline service offered by Caritas receives 120 calls", A04, *Hong Kong Daily News*, 11 October 2014.

¹⁵⁹ " 'Police neglect my personal safety' cries passerby", A05, *Apple Daily*, 4 October 2014.

¹⁶⁰ "Thugs condemned for defying laws human and divine", A06, *Ming Pao*, 5 October 2014.

¹⁶¹ "Families fallout over Occupy Movement", D01, *Ming Pao*, 10 November 2014.

NG Tak-kay, President of the Hok Yau Club, stated that some parents were worried about the negative impact that the student strikes would have on their children, especially on their academic progress and relationships with teachers. The possibility of their children receiving a criminal record as a result of participating in protest assemblies was another cause for anxiety. Aside from being concerned about the students' emotional wellbeing post-protest, NG was also concerned about the rift that had developed among students, teachers and the police.¹⁶² In view of an increase of violence, the Chinese University of Hong Kong set up on 4 October a 24-hour hotline, through which counseling service was provided by Psychology Professor LEUNG Yiu-kin and professional counselors of the Office of Student Affairs.¹⁶³

1.2.3 Figures on the traumatized

Organization	Number of cases received
Red Cross and Critical Incident Team of the Hong Kong Psychological Society	395
Caritas Family Support Centre (hotline)	289
Post Crisis Counseling Network	12
Hong Kong Federation of Youth Groups	10
Scholarism	1
Total	<u>707</u>

After the use of tear gas, 107 of the more severely affected were referred to clinical psychologists.¹⁶⁴

The Hong Kong Social Workers' General Union launched a series of surveys following the violent assaults that occurred in Mong Kok on 3 October, interviewing 93 protesters that occupied Mong Kok.¹⁶⁵ 82% of the interviewees felt that the turn of events was preposterous, while 74% were upset by the violence, and a further 73% were 'irate'. LUN Chee-wai, representative of the Union, stated that only major catastrophes or war could have induced such mass psychological trauma among citizens. On this occasion, however, this trauma was caused by the lack of a proper response from the police towards the demonstrations – LUN was concerned that further displays of police incompetency could lead to long-term damage to the civil society.

1.3 Sexual violence

During the Occupy Movement, 26 men and women protesters suffered from sexual harassments and sexual violence. One of the cases involved violence from the police, while the rest were about the police's connivance

¹⁶² "Insomnia, disconsolation – Red Cross receives 300 calls for assistance", A30, *Hong Kong Economic Journal*, 6 October 2014.

¹⁶³ Heads of 5 universities call for students to leave protest grounds", A03, *Hong Kong Daily News*, 5 October 2014.

¹⁶⁴ "Citizens have nightmares after tear gas attack", A09, *Apple Daily*, 7 October 2014.

¹⁶⁵ "Victim of alleged assault by seven police officers to identify suspects on Wednesday", A04, *Sing Tao Daily*, 24 November 2014.

at the violence. Analysis on the issue in this section is based on information from the following sources: news reports by the Hong Kong In-Media; data collected by the Hotline for Sexual Violence in the Umbrella Movement; and survey results from the Fight against Sexual Violence: Survey on Sexual Violence during the Umbrella Movement.

Hotline for Sexual Violence in the Umbrella Movement observed that, during the Occupy Movement some people tried to suppress others with different opinions by sexual violence. Sexual violence appeared in various forms, both physical and non-physical. It was not confined by one's standpoint, i.e., it also existed among people with the same standpoint. It happened on the scene and also on virtual reality, such as the Internet. It is necessary for the police as well as the general public to improve their self-awareness and coping skills in relation to sexual violence in social movements. The appeal mechanism requires improvements, too. It is also obvious that many people, whether they have suffered from sexual violence or not, show a lack of trust in the police's enforcement actions in this regard.

The Hong Kong Women's Coalition on Equal Opportunities said, since the Occupy Movement started they had received a number of requests for assistance, including cases about women being sexually harassed verbally, or being indecently assaulted directly. The Coalition condemned those behaviors as sexually discriminating and disrespectful, behaviors that regarded women as the weak and the inferior. The Coalition set up a hotline, urging people to call them for assistance if they (irrespective of gender) encountered sexual violence. The Coalition also appealed to the Hong Kong Government for protection over protesters' civil rights in political participation, and to the police force for immediate enforcement actions and investigations into the cases.

The following section is divided into two parts: (1) personal experience of sexual violence during the Occupy Movement; and (2) witnesses of sexual violence during the Occupy Movement.

1.3.1 Personal experience of sexual violence during the Occupy Movement

The Hotline for Sexual Violence in the Umbrella Movement received three cases, all about people experiencing sexual violence: a woman was asked by another woman not to wear low-cut clothes; a man experienced "verbal threat with sexual implications", "harassments without physical touch" (e.g., being followed, being peeped, being leered at), and "cyberbullying with sexual implications" (e.g., being offended by others purposefully online, and with sexual implications); another woman suffered from verbal threat and cyberbullying, plus "obscene criticism over her body" from others.

Among the three people mentioned above, only one sought help from others. When asked why they did not seek help, they all responded by saying that they "lack confidence in the police's enforcement"; two of them thought "the law fails to provide a comprehensive protection". Their worries about "personal data being publicized or reported by mass media" also hindered them from making their cases public or seeking for help.

When asked in a survey how social movement participants could be more effectively protected from sexual violence, they all chose "strengthen one's awareness and skills of self-protection", "promote gender equality in social movement participation", and "set up an effective, independent organization to deal with complaints and grievances". The answers show that these people think they lack the awareness and ability to deal with sexual violence; the ambience of social movements is not yet gender friendly; and existing systems lack independence, which discourage people from seeking them for assistance.

Quite a number of protesters told different women organizations that anti-Occupy rioters verbally assaulted them with expressions such as “[people] coming out for demonstrations should expect to be indecently assaulted”, “your tits ARE big; why not let people touch them”, and so on.¹⁶⁶

Major events:

- On 3 October, while a young girl attempted to enter the Mong Kok protest site to show her support, a man, in his 50s, claimed that he wanted to protect the girl, lunged at her and grabbed her from her back. His hands touched the girl’s breasts intentionally.¹⁶⁷
- On 3 October, a middle-aged man in a red shirt all of a sudden knelt down and begged the crowd to give way to him. He then grabbed hold of two student girls’ legs. Later he was escorted away by the police. One of the student girls, in great fear, burst into tears. Under the companion of her friend, the girl was taken to a police station to make a statement about her case of alleged sexual violence. Some people at the scene heard that someone was yelling “the guy is grabbing the girls’ legs”; some witnessed that the man grabbed both girls’ legs really hard, then crawled under the girls’ legs, and jumped up and grabbed another protester’s breasts.¹⁶⁸
- On 4 October, in the Mong Kok protest site, an old man allegedly groped and grabbed the breasts of a woman in white. A video clip filmed by the Now TV shows that, a pro-Occupy woman in a white vest was pulled by both an old man wearing a striped top and a woman in a blue shirt. The old man was suspected to have groped and grabbed the breasts of the woman in white. The woman being assaulted condemned the police for failing to arrest the attacker right on the spot.¹⁶⁹ The Hong Kong Branch of Amnesty International issued a statement to condemn the attackers and the police.¹⁷⁰
- On 5 October, Ann CHIANG Lai-wan, a Legislative Councillor belonging to the pro-government political party DAB (Democratic Alliance for the Betterment and Progress of Hong Kong), uploaded to her Facebook page a video clip entitled “03OCT2014 Anti-Occupy People Attack Road Barricades in Causeway Bay, Grab Young Girls’ Thighs, Crawl under Their Legs”. CHIANG, who was supportive of police actions against protesters, left a FB comment, “He did not commit indecent assault; he was not crawling between the girls’ thighs”, turning a blind eye to sexual violence cases. On the other hand, associations such as F-Union, AFRO, New Arrival Women League, JJJ Association, Women Coalition of HKSAR, Hong Kong Association of Women Social Workers, Association of Women with Disabilities Hong Kong, Hong Kong Federation of Women’s Centres, Network for Women in Politics, Association for the Advancement of Feminism, Teen’s Key, Women Affairs Committee of the Hong Kong Confederation of Trade Unions, and the Hong Kong

¹⁶⁶ “30 men in masks escorted by police after violent acts”, A03, *Apple Daily*, 4 October 2014.

¹⁶⁷ “Anti-Occupy fights from day to night at Mong Kok, 37 hurt, Protesters criticize police for taking no action”, A02, *Ming Pao*, 4 October 2014; “The people have had enough! Million-people clashes at Mong Kok”, *Ta Kung Pao*, 4 October 2014; “Police connives in rioters’ attack on protesters and clear the site, Hong Kong Federation of Students call off talks with Carrie Lam”, A01, *Apple Daily*, 4 October 2014; “Police turn a blind eye to our safety, cries passerby”, A05, *Apple Daily*, 4 October 2014; “Clashes break out in Mong Kok, CY Leung urges crowd to leave”, A01, *Hong Kong Commercial Daily*, 4 October 2014.

¹⁶⁸ “Men in masks hit people and dismantle road blocks at Causeway Bay”, A17, *Hong Kong Economic Times*, 4 October 2014; “Host of *Passion Times*: being indecently assaulted makes me stronger (13:05)”, the News, Instant News, *Ming Pao*, 5 October 2014.

¹⁶⁹ “Old man opposing occupy movement arrested for allegedly indecently assaulting woman protester (22:42)”, the News, Instant News, *Ming Pao*, 4 October 2014; “Thugs condemned for defying laws human and divine”, A06, *Ming Pao*, 5 October 2014.

¹⁷⁰ “Thugs condemned for defying laws human and divine”, A06, *Ming Pao*, 5 October 2014; “Amnesty International condemns police for not stopping evil acts”, A04, *Apple Daily*, 5 October 2014.

Women’s Coalition on Equal Opportunities, issued statements to urge the police to conduct a thorough investigation on all alleged sexual violence cases.¹⁷¹

- On 10 October, a 37-year-old woman reported to the police at the protest site in Nathan Road, Mong Kok that a man in his 50s was suspected to have taken indecent photos of her. During the police investigation the man did not allow the police to check his photos and was taken to the police station.¹⁷²
- On 11 October, a woman protester complained to the police officers on the scene that she was indecently assaulted by several counter-protesters during a scuffle.¹⁷³
- On 12 October, a 15-year-old girl accused a police officer of molesting her when he was pushing her away in a chaotic scuffle. The incident caused an uproar on the scene. The girl alleged that during the scuffle a police officer touched her breast. She then knelt down and cried. After the incident two men protesters were escorted away by the police. Among them a 32-year-old man was arrested for alleged attack of the police. The girl was taken to hospital for an examination.¹⁷⁴

1.3.2 Witnesses of sexual violence during the Occupy Movement

Hotline for Sexual Violence in the Umbrella Movement received complaints from 16 witnesses to sexual violence. Among them, 5 witnessed 3 times each, 6 witnessed 4 times each or more. 4 witnessed “harassments without physical touch (e.g., being followed, being peeped, being leered at)”; 9 witnessed “criticizing over one’s body in an obscene way”; 7 witnessed “harassments with physical touch (e.g., being stroked obscenely)”; 9 witnessed “cyberbullying with sexual implications” (e.g., offending others online with sexual implications purposefully).

Impacts of sexual violence: Among these 16 witnesses, 12 thought sexual violence exerts negative influence on one’s participation in “social activities (e.g., one will avoid information on social movements, become fearful of joining social movements)”.

In addition, during the Occupy period, many people attempted to cause chaos in the name of “indecent assault”, making it hard to judge if sexual violence really happened.¹⁷⁵

¹⁷¹ “Anti-Occupy man allegedly assaults student girl indecently”, A07, *Hong Kong Daily News*, 5 October 2014.

¹⁷² “Man accused of taking upskirt photos at Mong Kok protest area (13:20)”, the News, Instant News, *Ming Pao*, 10 October 2014; “Occasional scuffles in Mong Kok occupied area, Two reported cases involve sexual offences (08:30)”, the News, Instant News, *Ming Pao*, 11 October 2014.

¹⁷³ “Occasional scuffles in Mong Kok occupied area, Two reported cases involve sexual offences (08:30)”, the News, Instant News, *Ming Pao*, 11 October 2014.

¹⁷⁴ “Bandits go rampant in Mong Kok, One arrested for having kicked police officer, A hundred surround police station”, A01, *Sing Pao*, 13 October 2014; “Nightly clashes in Mong Kok, Private car rams into taxi thrice, Police smashes car window and arrests suspected drug driver”, P04, *Sky Post*, 13 October 2014; “Teenage girl complains police pushing on her breasts, Protesters reinforcing barricades in confrontations with police in Mong Kok”, A06, *Hong Kong Daily News*, 13 October 2014; “Mong Kok On the Spot (02:17)”, *inmediahk.net*, 12 October 2014.

¹⁷⁵ “Occupy Central Live (09:00)”, *inmediahk.net*, 4 October 2014.

2. Report on complaints regarding power abuse by police

This part summarizes the incidents of, and complaints against, power abuse by police since the Umbrella Movement.

Power of police is legally provided for by the Police Force Ordinance (Hong Kong Ordinances CAP232). The Police Force Ordinance elaborates the duties and power of the police force, including preserving public peace, preventing crimes, protecting life and property of citizens, making arrests of suspected offenders in accordance with the law, regulating assemblies in public places, controlling traffic, etc. Under the law, police is empowered with extensive authority, including substantial discretion to make decisions as regards stopping and checking citizens, arresting and detaining citizens, allowing release on bail, etc. All police officers must comply with the Ordinance. Chapters 46 and 47 state that the Commissioner of Police may from time to time issue police orders and headquarter orders to guide frontline police officers to execute their duties, provided that such orders are not inconsistent with the provisions of the Ordinance. These orders are internal documents. Not all parts of the orders are disclosed to the public.

At the same time, due to the nature of public activities, in executing their duties, police must also take into account the Basic Law, the Bill of Rights and the United Nations International Covenant on Civil and Political Rights. These include but not limited to the following clauses:

Basic Law

Article 27

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

Article 28

The freedom of the person of Hong Kong residents shall be inviolable.

No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited.

Article 30

The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences.

Article 39

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Hong Kong Bill of Rights Ordinance

Article 16 - Freedom of opinion and expression

(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

(3) The exercise of the rights provided for in paragraph (2) of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary - (a) for respect of the rights or reputations of others; or (b) for the protection of national security or of public order (ordre public), or of public health or morals.

[cf. ICCPR Art. 19]

Article 17 - Right of peaceful assembly

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. [cf. ICCPR Art 21]

Article 18 - Freedom of association

(1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interest.

(2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interest of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

(3) Nothing in this article authorizes legislative measures to be taken which would prejudice, or the law to be applied in such a manner as to prejudice, the guarantees provided for in the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize as it applies to Hong Kong.

[cf. ICCPR Art. 22]

International Covenant on Civil and Political Rights

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order

(ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

This section covers the following parts (1) excessive use of force by police; (2) stopping and checking for identity card, body search and showing police warrant card; (3) excessive arrests; (4) expelling medical volunteers and journalists from the scene; and (5) obstructing protest processions and assemblies.

2.1 Excessive use of force by police

The use of force by police is provided for by two Ordinances: Criminal Procedure Ordinance Section 101A and Police Force Ordinance Section 50(2).

Section 101A (1) of the Criminal Procedure Ordinance :

A person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Section 50(2) of the Police Force Ordinance:

If any person who may lawfully be apprehended under subsection (1) or (1B) forcibly resists the endeavour to arrest him or attempts to evade the arrest, a police officer or other person may use all means necessary to effect the arrest. (Replaced 57 of 1992 s. 2)

Concluding observations issued by the Human Rights Committee of United Nations on the third periodic report of Hong Kong SAR in the light of International Covenant on Civic and Political Rights (2013): (paragraph 11)

“The Committee expresses concern about reports of excessive use of force by members of the police force, not compatible with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular by the inappropriate use of pepper spray to break up demonstrations to restore order, notably with regard to demonstrations surrounding the annual Hong Kong march on 1 July 2011, the visits of Vice-Premier and President of China, respectively in August 2011 and July 2012 (arts. 7, 19 and 21). Hong Kong, China, should increase its efforts to provide training to the police with regard to the principle of proportionality when using force, taking due account of the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials.”

This section includes (1) use of tear gas grenades (2) incidents and level of force used by police (3) leaking information about police armoury to intimidate protesters.

2.1.1 Use of tear gas grenades

The guidelines for using force are unclear. Regarding the use of tear gas agents, Police General Orders has the following standard: It is important to note that tear agents are not absolutely harmless. Their use must comply with the regulations regarding level of force in Force Procedures Manual and Manual of Internal Security.¹⁷⁶

¹⁷⁶ “Expert says tear gas hurts skin, can be lethal if misused”, A10, *Ming Pao*, 2 October 2014.

On 22 October, police released a video “The Use of Tear Smoke”. In the video, Dr. Jimmy CHAN Tak-shing, President of Hong Kong Association for Conflict and Catastrophe Medicine, said that tear smoke had only mild impact on the body and was therefore “relatively safe”. During a number of press conferences, police also reiterated that tear smoke had insignificant impact on human bodies.

Dr. Sven-Eric JORDT, Associate Professor in Anesthesiology at Duke University in US and expert in tear gas grenades, told the press that the CS (scientific name is 2-Chlorobenzalmalononitrile) tear gas used by the Hong Kong police can cause chemical burn to the skin and the victim will take a few weeks to recover. Repeated application will even lead to serious complications. He was concerned about the extensive undesirable impact to health resulting from the use of tear gas grenades.

Professor Ronnie POON, one of the world’s leading authorities on liver cancer and Chief of the Division of Hepatobiliary and Pancreatic Surgery at University of Hong Kong, writes in his article,¹⁷⁷ “An Assistant Commissioner of Police told the press that tear gas was just equivalent to pepper spray except for its coverage of a larger area. Some people around me also feel the same, and Regina IP Lau Suk-yee commented that use of tear gas was no big deal because experts said tear gas was totally harmless. I don't know who those experts are. I would not be surprised by the laymen's impression, but I am very surprised that the police force who is in possession of potentially lethal or harmful weapons seem to have no knowledge of the possible harms of these weapons...First, tear gas is released after explosion of tear gas shells, which if occurs close to a person can lead to explosive injury. A review of 18 cases of severe vascular injury caused by tear gas shells showed that most required surgery for repair, and three patients ended up in limb amputation.

Second, tear gas can be inspired deep into the lung while pepper spray only has a superficial effect. Tear gas has been reported to induce acute pulmonary effects causing severe hypoxia necessitating ICU care. In sensitive patients, it could also induce laryngospasm or bronchospasm, which is particularly dangerous in people with asthma or those who require general anesthesia for concomitant injury. A study of 93 cases with repeated exposures to tear gas shows risk of long-term complications like chronic bronchitis or reduced lung function.

A recent literature review concludes that tear gas and pepper spray used for crowd control are not without risks, particularly for people with pre-existing respiratory conditions, and some people are at risk of delayed complications that can be severe enough to warrant admission to hospital and even ventilation support. Typical manufacturer warnings on tear gas cartridges state "Danger: Do not fire directly at person(s). Severe injury or death may result." Even if police officers have not been taught on the potential harm of tear gas, they should at least learn from this warning label and try to avoid firing it directly at the people, but it seemed not the case from what I saw on the TV.”

Internal Medicine Specialist Dr. LO Man-Wai also pointed out that tear smoke can induce various diseases, causing harm to eyes, respiratory system, skin and digestive system.¹⁷⁸

Therefore, police need to explain their decision to discharge tear gas grenades on 28 September, and take disciplinary action against improper acts, including:

- Direct discharge of tear gas grenades at citizens;

¹⁷⁷ “Protect our younger generation, don’t use tear gas”, *inmediahk.net*, 6 October 2014.
<http://www.inmediahk.net/node/1026922>

¹⁷⁸ “Dr. Lo Man-wai :Tear smoke triggers various kinds of illnesses”, 28 October 2014.
<http://www.inmediahk.net/node/1027862>

- Obstructing citizens who wanted to leave the scene. HKUSU Campus TV showed a video filmed on the evening of 28 September¹⁷⁹ at Queesway outside Chater Garden. In the video, some protesters told the police, who had put on gas masks and were raising a black banner with the words “Warning: Tear Smoke”, that they wanted to leave. They explained that the road at the back and the MTR station were already blocked by police, so they could only leave via the road in front of them. They reiterated that “we request to leave” and hoped police could “find a policeman to assist us to leave”. However, police only repeatedly asked the protesters to move backward. There was at least a distance of 2 metres between the protesters and the police. All of a sudden, police fired a tear gas grenade at the protesters. The grenade exploded close to a protester and people retreated quickly, some cursing at police with foul language. The riot police then spread out in a single line to advance forward.

Use of OC Water Jet Pack resulting in many injuries

On 25 and 26 November, police for the first time used the OC Water Jet Pack or tear agents in liquid form, a stronger weapon than pepper spray, to disperse protesters.¹⁸⁰ On 30 November, police used the weapon again, resulting in the injury of many protesters and medical volunteers.

Mr. LAM was hit by the tear agents liquid at Mong Kok and he still felt burning pain after 45 minutes. He said the liquid was obviously stronger than pepper spray as the former would quickly spread out to the whole body. “We don’t rinse pepper spray with water, because it would spread out to “burn” the whole body, causing more pain. This is exactly what you feel when hit by tear agents liquid.” He said the burning pain of the liquid was also more lasting than pepper spray. “Pepper spray only lasts for a while. This time, I was hit by tear agents liquid. Even after 45 minutes, I still feel very “hot” and need to cool down by a fan.”¹⁸¹

Chairman of Civil Human Rights Front Police Powers Monitoring Group Johnson YEUNG Ching-yin pointed out that police had used excessive force, resulting in more than 200 injuries. Citizens were driven by police to Portland Street. Without setting up police cordon, he queried how police could define people standing on the pavement as participants of unauthorized assembly. He added that the people did not resist but police used the level of force similar to that of 28 September. He also wondered if tear agents liquid was mentioned in the Police General Orders.¹⁸²

2.1.2 Incidents and level of force used by police

Under Chapter 29 of Police General Orders regarding the “Use of force and firearms”, a police officer should, so far as is reasonably practicable, allow the other party to obey the police order, before using any force. The principle governing the use of force is that only the minimum force necessary to achieve the purpose may be used. Once that purpose has been achieved, the use of such force shall cease. The force used must be reasonable in the circumstances.

¹⁷⁹ “[Video] Tear gas grenade thrown at protesters who ask to leave (17:37)”, the News, Instant News, *Ming Pao*, 2 October 2014. <https://www.youtube.com/watch?v=q93ulax21w8>

¹⁸⁰ “Police use tear agents liquid”, *inmediahk.net*, 25 November 2014; “Ingredients of tear agents liquid similar to pepper spray”, *Oriental Daily*, November 26, 2014; Mong Kok On-the-Spot(11:32), *inmediahk.net*, 26 November 2014; “Police plan to use tear agents liquid, Joshua Wong, Lester Shum, Raphael Wong and others arrested”, *inmediahk.net*, 26 November 2014; “Clearance of Argyle site, Police use tear agents liquid, At least 80 arrested”, *inmediahk.net*, 26 November 2014.

¹⁸¹ “It feels like entire body being burnt by fire when hit by tear agents liquid”, *Apple Daily*, 26 November 2014.

¹⁸² “Civil Human Rights Front criticizes police for excessive and unregulated use of force”, *inmediahk.net*, 26 November 2014.

On 15 December, police have issued the following press release:

Police have all along remained tolerant and restrained. However, Police still have to use the minimum level of force when confronted with violent behaviours and chaotic situations mostly on the following nine days including:

28 September

Protesters charged the Police and Police cordon outside the Central Government Offices.

3 October

Persons supporting and opposing the illegal occupation had major confrontation in Mong Kok.

15 October

Illegal occupiers dashed onto Lung Wo Road and occupied the major thoroughfares.

17 October

Illegal occupiers re-occupied the re-opened sections of roads in Mong Kok and charged the Police.

18 October

Illegal occupiers charged the Police and attempted to extend the illegally occupied areas in Mong Kok.

19 November

Protesters stormed the Legislative Council Building and caused wanton damages.

25 November

Illegal occupiers scattered around and attempted to block the roads in Mong Kok and Yau Ma Tei after Police had assisted the execution of Injunction Order in Mong Kok.

26 November

Large groups of illegal occupiers gathered at night and attempted to block the roads from Mong Kok to Tsim Sha Tsui after Police had assisted the execution of Injunction Order in Mong Kok.

30 November

Protesters blockaded the Central Government Offices and charged the Police.

On 27 January, upon giving an account of the law and order situation at the Panel on Security of Legislative Council¹⁸³, Commissioner of Police TSANG Wai-hung mentioned that in handling the Occupy Movement, police had remained “most patient, most restrained, and did not need to resort to force for most of the time”. He also claimed that police did not enforce the law on the spot in order to avoid extensive conflict and injuries, and “hurting innocent students”.

Inconsistent records

The above record given by the police is obviously incorrect. It seriously understates the number of cases in which forces were used. Whenever an individual police officer exercises his discretion to use force, this must also be recorded.

¹⁸³ “Police priority this year: Striving for public support and understanding, Tsang Wai-hung: Citizens should not play the role of judge in the case of 7 policemen”, A08, *Ming Pao*, 28 January 2015.

Correct number of conflicts

Date		Time	Incidents		Use of lethal force?	Any police record?
Month	Day		Role of Police	Other details		
Sept	26	22:30	Dispersed crowds	Admiralty		
	27	01:00	Dispersed crowds	Admiralty		
		03:00	Dispersed crowds	Admiralty		
		07:00	Dispersed crowds	Admiralty		
	28		Dispersed crowds	Admiralty, tear gas	✓	✓
Oct	1			In the streets		
	3		Connivance at violence, dispersed crowds	Mong Kok, Conflicts (6 times)	✓	✓
	4	03:00	Connivance at violence, dispersed crowds	Mong Kok	✓	✓
		04:00				
				Causeway Bay		
			Dispersed crowds	Citic Tower, Admiralty		
	7		Connivance at violence	Mong Kok, razor blade		
	14		Dispersed crowds	Lung Wo Road, Admiralty	✓ (surreptitious beating)	
	15		Dispersed crowds	Lung Wo Road, Admiralty	✓ (surreptitious beating)	✓
	17		Dispersed crowds	Mong Kok		✓
	18		Dispersed crowds	Mong Kok	✓	✓
	19	00:09		Admiralty	✓	
	24		Connivance at violence	Mong Kok		
Nov	6	23:00		Admiralty		
		02:00				
	19	00:00		Stormed Legislative Council building		✓
		03:00				
		04:00				
	23			In the streets, street booths		
	25	17:00	Dispersed crowds	Mong Kok, injunction order	✓	✓
		21:00				
	26		Dispersed crowds	Mong Kok, injunction order, Tsimshatsui	✓	✓
	27	04:00	Dispersed crowds	Mong Kok	✓	
	28		Dispersed crowds	Mong Kok		
	30		Dispersed crowds	Central Government Offices		✓
Dec	1		Dispersed crowds	Central Government Offices	✓ (surreptitious beating)	
	23		Dispersed crowds	Gau Wu (shopping)		

On 6 October, Senior Superintendent of Police KWOK Pak-chung explained that, up to 5 a.m. on 5 October, 6 conflicts took place in Mong Kok. Police used pepper spray and baton once each at the main gate of Mong Kok Police Station. Participants repeatedly provoked police, who resorted to use the aforementioned equipment after unsuccessful mediation.

Repeated use of excessive force level

Apart from tear gas grenades, police often use batons, pepper spray and tear agents liquid. Some are used at a lethal level, violating the guidelines.

At the press conference on 20 October, a reporter queried if police should hit protesters on the heads with batons and if police had violated the guidelines by using batons prior to pepper spray. But Chief Superintendent of Police HUI Chun-tak¹⁸⁴ said, "The force level used depends on the circumstances, rather than adhering to a strict order of sequence. For two consecutive nights in Mong Kok, there were radical protesters charging police. Police used their batons for defense as well as keeping a safe distance to lower the number of injuries. Once the purpose has been achieved, the use of force would cease."

On 21 October, HUI was queried if police have violated the guidelines which only allow hitting the limbs.¹⁸⁵ He replied, "Police used batons to avoid being attacked by the umbrellas. The protesters threw water bottles, hard objects and even metal barriers towards the police. We have warned them repeatedly and asked them to stop radical actions." However, HUI did not respond to the query if beating heads was violating the guidelines.

When HUI was asked again if police were allowed using batons on the heads, he still did not answer directly. "The purpose of police using force is not to hurt anyone. We use minimum force including batons for defense." When HUI was asked again the same question for the third time, he seemed a bit annoyed in his response. "I would like to clarify that police batons are not used for the purpose of hitting the head. The purpose of using force is to avoid crimes. Police do not use batons for the purpose of hurting any person."

On 14 December, Commissioner of Police TSANG Wai-hung admitted that police might have "hit wrongly" in a flash and they meant to use batons as minimum force to stop and disperse protesters who were charging police. "Events always happen in a split second and our colleagues used batons to....originally....target other parts of the body, but due to various circumstances, such as protesters charging police, then there may be unexpected outcomes (hitting the head)." He said that there are stringent guidelines for police using force, which must cease upon achieving the purpose. All police officers handling the Occupy Movement have adhered to the guidelines.¹⁸⁶

On 29 November, Post852 reported that the Police General Orders, the full disclosure of which has all the time been refused, stipulates that a police officer must submit a report when a retractable baton has hit a person. "If any person is hit by a retractable baton, regardless of whether it is intentional or not, the Formation Commander or Head must submit a preliminary report to the Major Formation." The original purpose of the report is to reflect what has happened, which facilitates investigation if the person gets injured. Some information sources suggest that this procedure was "waived" during the Occupy Movement. Chief Superintendent of Police Public Relations Branch HUI Chun-tak was asked three times at the press conference if such reporting procedure had been waived. He only repeatedly stressed that there are guidelines for police

¹⁸⁴ "Police have no intention to clear the sites, Protesters warned not to charge", A02, *Sing Pao*, 20 October 2014.

¹⁸⁵ "Hui Sir: Batons not for hitting heads", A08, *Apple Daily*, 22 October 2014.

¹⁸⁶ "Tsang Wai-hung: Police protect students like loving mother, Internet users: batons in the hands of loving police, injuries on the bodies of protesters", A04, *Apple Daily*, 21 December 2014.

using force; the force level used depends on the circumstances; only the minimum force will be used and once the purpose has been achieved, the use of such force shall cease.¹⁸⁷

Regarding the query about police conniving at violence, police responded on 4 October,¹⁸⁸ “...in view of the chaotic situation in Mong Kok yesterday, our police officers have been doing their best to ensure public safety and carried out their duties in an impartial manner. Against such background, I note that some people have accused police of tolerating and even colluding with triad gangs. Such accusations are completely unfounded and very unreasonable; as well as extremely unfair to police who have endeavoured to discharge their duties.” But on 5 October, Assistant Commissioner (Operations) CHEUNG Tak-keung told the media, “The protests have blocked the roads for many days, causing dissatisfaction among the public. This is liable to conflicts and one won’t be surprised to see quarrels developing into violence.”¹⁸⁹

In addition, HUI also said,¹⁹⁰ “This time, the operation is fairly complicated, putting definite pressure on frontline police officers. Protesters claim that police do not enforce the law, but at the same time they deliberately obstruct police in the execution of their duties. However, police will continue to enforce the law faithfully and truthfully.”

At the Legislative Council meeting on 27 October, Kenneth LEUNG questioned about the guidelines on using police batons. He noted that police had beaten protesters in Mong Kok with batons, and remarked that injury to the head could be lethal. Police replied that the use of batons was “defensive”.¹⁹¹ Apart from using lethal force, police also abused the power of using force. On 5 October, a police van tried to drive away from Tong Mi Road but was obstructed by protesters. In escorting the police van to leave, police repeatedly used pepper spray and retractable batons to threaten protesters. Eventually, the police van was able to leave the protest area.¹⁹² Also, police officers and inspectors often swayed their batons to drive away citizens.¹⁹³

2.1.3 Leaking information about police armoury to intimidate protesters

At times, police intimidated protesters by charge of obstruction, weapon news and demonization of the Occupy Movement. Among them, weapon news is the most serious. On 4 November, it was reported that during a training at the Police College, police tried the new “pepper spray machine”. At a press conference, Senior Superintendent of Police Public Relations Branch KONG Man-keung did not respond to a question on whether the police were preparing for the clearance of the occupied area. He only explained that it was necessary to provide professional training and equipment to frontline colleagues. He also said that police maintained a distance in order to stop violence and “protect people on the scene”.¹⁹⁴ However, the harmfulness of weapons was not taken into consideration, which violated the criteria for using weapons.

- As early as late September, there was news that the Government would establish a “STTG Quick Reaction Force”, responsible for duties of patrol, stand guard and carrying away protesters.¹⁹⁵

¹⁸⁷ “Waiving the reporting requirement on beating with batons”, A03, *Apple Daily*, 29 November 2014.

¹⁸⁸ *news.gov.hk*, 4 October 2014.

¹⁸⁹ “Two triad gangs involved in Occupy and anti-Occupy, Police target triad members, 20 arrested”, A02, *Sing Pao*, 5 October 2014.

¹⁹⁰ “9-day siege causes injuries to 27 policemen, 37 arrested”, A08, *Sing Tao*, 7 October 2014.

¹⁹¹ “Legislative Council Live (15:38)”, *inmediahk.net*, 27 October 2014.

¹⁹² “Mong Kok On-the-Spot (4:13)”, *inmediahk.net*, 4 October 2014.

¹⁹³ “Mong Kok On-the-Spot (20:16)”, *inmediahk.net*, 26 November 2014.

¹⁹⁴ “Police avoids the question on pepper spray machine”, P06, *Metro Daily*, 4 November 2014.

¹⁹⁵ “Occupy Central will today announce details of their actions, Government sets up STTG Quick Reaction Force”, A04, *Hong Kong Daily News*, 25 September 2014.

- On 27 September, frontline members of the Police Tactical Unit put on riot helmets. They also transported riot shields to the scene a number of times.¹⁹⁶ It was rumoured that police were testing water cannon car nearby. Every time when there was redeployment of police, students and protesters would feel tensed. The message of “be careful of water cannon cars” spread out quickly.¹⁹⁷ On the evening of 28 September, it was rumoured that police were posted at various main locations on the island side. A large number of policemen arrived at Admiralty by MTR and riot police were deployed at various main financial buildings in Central, including HSBC and Cheung Kong Centre. There was also a large group of riot police at City Hall. Protesters set up metal barriers for defense but police kept charging the protesters. There were also large groups of police carrying warrant cards inspecting at the Harcourt Road Flyover.¹⁹⁸
- According to the guidelines leaked out earlier, police should use pepper spray only when the situation involves violence. Prior warning should be given and a distance of two feet should be kept. At the protest area on 28 September, a police officer in white uniform suddenly grabbed the left arm of a man on the other side of the metal barriers. The man, who was originally standing with his back towards the police officer, turned round. At that moment, the police officer applied pepper spray directly to the man’s face, lasting for about a second.¹⁹⁹ At a later stage, police used “big bottles” of pepper spray which are blue in colour and look like fire extinguishers. The contents, concentration and force level are similar to small bottles but the range, the spray volume per second and the area coverage have increased.²⁰⁰
- On the evening of 28 September, there were rumours that police would fire to drive away the crowds. Police at Harcourt Road were fully armed, holding long-barreled guns. Earlier, they had held up an orange banner, with the warning: “Disperse or We Fire”.²⁰¹ According to a student of Academy of Performing Arts, she was advised by a police officer to leave the scene as soon as possible because after midnight police would start to fire to suppress the riot. A number of media have taken pictures that clearly show the police displaying banners with warning to fire, as well as Anti-riot Squad pointing guns towards the masses. Albert CHENG Jing-han commented that, since Chief Executive LEUNG Chun-ying had proclaimed in his late night statement that police would not fire, those police officers disobeyed the command. They should be investigated, and a reasonable explanation should be given to the public.²⁰²
- On 2 October, 400 police officers in uniform carried on foot more than 100 blue nylon bags marked with “SUP TW”, 20 warning flags, shields, brown barrels of rubber bullets, grey barrels and iron cases of tear gas grenades, ammunition marked with 5.56mm, blue wooden case of long-barreled guns and pepper spray in fire extinguisher like cylinders. Police moved the equipment to Tim Wa Avenue in a high profile manner, causing a number of speculations.²⁰³ A senior police officer disclosed to a Ming Pao reporter that they had already transported appliances such as rubber bullets and tear gas grenades to the Chief

¹⁹⁶ “Incessant pepper spray at Lung Wui Road, False retreat and psychological warfare to disperse the crowds”, A16, *Apple Daily*, 28 September 2014; “Top government officials convene urgent meeting, Early onset of operations to clear Occupy Central, Leung not showing up on the excuse of attending other official business”, A16, *Apple Daily*, 28 September 2014.

¹⁹⁷ *Ibid.*

¹⁹⁸ (21:38), *inmediahk.net*, 28 September 2014.

¹⁹⁹ [Video] “Police hit protesters with pepper spray at close distance (21:05)”, the News, Instant News, *Ming Pao*, 28 September 2014.

²⁰⁰ “Unimog APC and sonic weapon rumoured to be deployed”, A02, *Sing Pao*, 29 September 2014.

²⁰¹ (19:04), *inmediahk.net*, 28 September 2014.

²⁰² “Preliminary report of 9.28 Civic Watch on Police”, A22, *Hong Kong Economic Journal*, 3 October 2014.

²⁰³ “Citizens continue to surround Chief Executive Office and Central Government Offices”, *ATV News*, 3 October 2014; “Police move in weapons by cheating protesters to give way to rescue team, A02, *Apple Daily*, 3 October 2014.

Executive's Office. He emphasized that if protesters charged at the police cordon there, "police will definitely use those appliances against the protesters."²⁰⁴

- In the late night of 18 October, protesters at the Admiralty occupied site attempted to rush out to Lung Wo Road. The Emergency Unit took along four to five police dogs to guard the venue.²⁰⁵
- On 1 December, about 50 police officers were stationed at the footbridge linking Admiralty Centre with the entrance of the Central Government Offices. They brought with them police dogs, which barked continuously for about 15 minutes.²⁰⁶

2.2 Stop and check for identity card; body search; showing police warrant card

The power of police to stop, detain and search is provided for by section 54 of the Police Force Ordinance:

(1) If a police officer finds any person in any street or other public place, or on board any vessel, or in any conveyance, at any hour of the day or night, who acts in a suspicious manner, it shall be lawful for the police officer-

- (a)** to stop the person for the purpose of demanding that he produce proof of his identity for inspection by the police officer;
- (b)** to detain the person for a reasonable period while the police officer enquires whether or not the person is suspected of having committed any offence at any time; and
- (c)** if the police officer considers it necessary to do so-
 - (i)** to search the person for anything that may present a danger to the police officer; and
 - (ii)** to detain the person during such period as is reasonably required for the purpose of such a search.

The Ordinance should be read together with other Ordinances concerning the power to stop, such as section 17 of the Immigration Ordinance (Chapter 115), section 52(1) of the Dangerous Drugs Ordinance, sections 33 and 49 of the Public Order Ordinance, sections 41 and 42 of the Firearms and Ammunition Ordinance, and sections 43 and 60 of the Road Traffic Ordinance, etc.

In the police website, under "Useful Information", it is stated that "Every police officer has the power to question any person about a crime or offence", and "A police officer has a general power to stop and question any person behaving suspiciously. While doing so he may demand proof of identity, conduct computerized enquiries and search for weapons or drugs".²⁰⁷ In a 2013 Legislative Council document, police explained the relevant procedures as follows:²⁰⁸ "The Police fully understand the importance of obtaining public co-operation when stop-and-question or stop- and-search actions are conducted. In conducting such actions, police officers shall, first of all, identify themselves and, without prejudicing operational efficiency, clearly explain the reason for stopping the person(s) in question. Any search on the person stopped, if deemed necessary, shall be carried out by police officers of the same sex. Police officers shall also inform the person(s)

²⁰⁴ "Police admit rubber bullets transported to Chief Executive Office", the News, Instant News, *Ming Pao*, 2 October 2014; "Federation of Students says police bring tear gas grenades to Chief Executive Office (17:23)", the News, Instant News, *Ming Pao*, 2 October 2014.

²⁰⁵ "Re-occupy Nathan Road", A02, *Ming Pao*, 18 October 2014; "Scuffles at Mong Kong night", P01, *Headline Daily*, 18 October 2014; "Intermittent conflicts at Lung Wo Road and Causeway Bay", A01, *Sing Tao*, 19 October 2014.

²⁰⁶ "4 battles during the night", A04, *Apple Daily*, 2 December 2014.

²⁰⁷ Police Powers of Detention, Stop and Search, Hong Kong Police Force, http://www.police.gov.hk/ppp_tc/11_useful_info/power_ssa.html

²⁰⁸ LCQ3: Stop and question or stop and search actions by Police, Press Releases, 30 October 2013.

of the reason for and the scope of such a search in advance. Personal data obtained during the stop-and-question and stop-and-search actions shall be properly handled in strict compliance with the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486).”

After perusing a number of related ordinances in detail, the Law Reform Commission in the Report on Arrest²⁰⁹ (1992) explicitly states that, “Existing law gives a police officer a wide power to stop persons to demand proof of identity. Such a power can be exercised subjectively, at random and without a requirement of reasonable suspicion. The law is set out in section 17 of the Immigration Ordinance (Cap 115).” However, “In fact, the ID check provisions of the Immigration Ordinance when used in conjunction with some of the broader existing stop and search powers described below might give rise to the conclusion that the police can justify any stop and search (ex post facto if necessary). For example, an initial stop and search could be explained on the basis of a random ID check and that the suspect’s behaviour after the stop gave rise to reasonable suspicion. It could be argued that the practice of random stops without a requirement of reasonable suspicion could be a violation of Article 14 of the Bill of Rights Ordinance which deals with protection of privacy, etc (see also Article 5 of the Bill of Rights Ordinance).”

Currently, police declare that they “have legally unlimited and operationally non-reviewable powers to stop and, if need be, search people in the street, at will”²¹⁰ If a police officer finds a person “acts in a suspicious manner”, he can check identity (section 54 (1)) or detain (section 54(1)(b)) or search (section 54(1)(c)). The phrase “acts in a suspicious manner” is neither clearly defined by legislation nor authoritatively clarified by case law. In most cases, judges have simply deferred to police by accepting their opinion. In one instance, the Court of Appeal opined: “ “Acting furtively” or “acting in a suspicious manner” are expressions very frequently used by police officers in the witness box and, in this instance, the police officer later sought to explain what he meant by saying that when the appellant saw him he attempted to run away.” Other cases also do not provide objective facts to explain “reasonable suspicions”. It is formally acknowledged by the court in Attorney General v. KONG Chung-Shing [1980] (HKLR 533) that mere “intuitive” suspicion is good enough to stop, and if necessary detain and search.

In subsequent cases, the court has tried to add constraints to this power. According to the case WONG Tze-Yam v. Commissioner of Police et al (HCA539/2007), the High Court opined in the judgment: “This is not to say that the police officer could act arbitrarily without regard to the actual circumstances at the material time; otherwise, section 54(1) would be open to abuse....while it is for a police officer to form a subjective judgment that someone is acting suspiciously, he must have regard to the relevant objective facts — such as the time, location, circumstances at the scene, and the demeanour, conduct and acts of the person — and then apply his professional training and knowledge to decide whether the person is acting suspiciously. In other words, a police officer who seeks to exercise the power under section 54(1) must rely on some objective facts as the basis of his conclusion that the person stopped and searched by him has acted suspiciously.” (paragraph 13)²¹¹

In this regard, the Law Reform Commission in 1992 proposed to limit the power of police substantially (pages 24,25, §§3.28-3.29) - “We have concluded that there should be a power to carry out random identity card checks, but that the information available to the police officer making such a check should be restricted to....obtaining information under the EPONICS system as to whether: (1) there was in existence an arrest warrant for the person stopped; or (2) (for the protection of the police officer) the person stopped was likely to be violent....However, as a safeguard against abuse of the power we believe that a requirement should be imposed on the police to keep a written record of any ID checks.” The Commission also recommended the

²⁰⁹ Report on Arrest, The Law Reform Commission of Hong Kong, August 1992

<http://www.hkreform.gov.hk/en/docs/rarrest-e.pdf>

²¹⁰ Kam C Wong (2010), Police powers and control in Hong Kong, *International Journal of Comparative and Applied Criminal Justice*, Spring 2010, 34(1)

²¹¹ Alvin N Yeung, “Umbrella 2.0: Police power in checking identity cards”, *inmediahk.net*, 17 December 2014.

provisions of the English Police and Criminal Evidence Act 1984 be adopted in Hong Kong, in order to plug the loopholes of Hong Kong law.

There are also queries on whether the number of searches is proportionate to and commensurate with the crime rate. Please refer to the following table for details:

Year	1994	...	2008	2009	2010	2011	2012
Number of stop and search actions	1.3 million		1.86 million	1.89 million	1.86 million	1.74 million	1.63 million
Percentage of offences detected	N/A		1.57%	1.38%	1.17%	1.02%	1.069%

Source: Record of Proceedings, Legislative Council paper, 30 October 2013, page 1394-5.²¹²

In October 2013, the Secretary for Security, in response to a query raised by Legislative Councillor Kenneth LEUNG, said that the relevant police officers might ask for further information (including residential address and other information) from the persons concerned under reasonable conditions, but this is subject to the situation of individual cases. Also, for the sake of setting an appropriate period, police adopt a duration of three years (for keeping these information). The information will be disposed of after three years if nothing happens. However, the Secretary for Security did not directly answer LEUNG’s question on whether information kept by the police would be used for other purposes, for example, investigating other cases or conducting criminal intelligence work.²¹³ Another point worth noting is that, according to the figures presented to the Legislative Council by the Security Bureau, for the years 2008 to 2012, there were a total of 1097 complaints regarding police stop-and-check or stop-and-search actions received by the Complaints Against Police Office. But only 3 cases were “substantiated”, showing a very low rate of success for complaints.²¹⁴

On 11 December, police arrested 249 people during the clearance of the occupied site at Admiralty. Civil Rights Observer noted that the arrested protesters were given forms to fill in or interrogated by police. In either way, arrested protesters were required to disclose very detailed personal information including their background, names of primary school, secondary school and university they have attended, parents’ names, native place, current job, and whether or not they are living with family members. The information required covers even daily activities, places visited and bad addictions, if any. Police have obviously collected excessive personal data, and how the information is to be used is not made clear.²¹⁵

²¹² <http://www.legco.gov.hk/yr13-14/english/counmtg/hansard/cm1030-translate-e.pdf#nameddest=mtc>

²¹³ Record of Proceedings, Legislative Council paper, 30 October 2013, page 1390-8. <http://www.legco.gov.hk/yr13-14/english/counmtg/hansard/cm1030-translate-e.pdf#nameddest=mtc>

²¹⁴ “[Fan’s analysis] Human right lawyer: Police Force Ordinance spells out that ID cannot be checked at will”, 852 *Channel*, 14 December 2014; Record of Proceedings, Legislative Council paper, <http://www.legco.gov.hk/yr13-14/english/counmtg/hansard/cm1030-translate-e.pdf#nameddest=mtc>

²¹⁵ “Concerns about police using misleading ways to solicit personal information from arrested protesters, Hong Kong Civil Rights Observer, 12 December, 2014; Johnson Yeung Ching Yin, “Anti-triad Squad darker than triad societies”, *inmediahk.net*, 13 December 2014.

During the Occupy Movement, police stopped and checked citizens joining the protests on numerous occasions. On 27 January, police responded that²¹⁶ the Investigation Team would follow up on those occupiers with their identity cards recorded by police, and the information would be disposed of if there is no need to retain it. Police emphasized that they would act according to the law. However, police did not confirm whether or when to prosecute, but only repeated that “the present stage is mainly to investigate the organization and leaders of the Occupy Movement; whether we would prosecute all participants is to be decided by the Department of Justice.” On 16 December 2014, 15 and 26 January 2015, Ming Pao reporter made enquiries with the Police Public Relations Branch, requesting information on the total number of protesters with identity card recorded by police, as well as breakdowns of such figures by dates and places. Legislative Councillors LEE Cheuk-yan and CHEUNG Chiu-hung also criticized police for frequently demanding protesters to show their identity cards and provide personal information. Such act was regarded as invasion of privacy.²¹⁷

On 28 January 2015, Commissioner of Police TSANG Wai-hung, reiterated that the Investigation Team would follow up on those occupiers with their identity card recorded by police and the information would be disposed of if there is no need to retain it. He emphasized that police would act according to the law, but did not directly address the question of whether or when to prosecute those persons. Compared to the Hospital Authority’s handling of protesters’ information, the police have not given a similar undertaking to comply with the requirements of the Personal Data (Privacy) Ordinance.²¹⁸

The following is a list of cases that involve stop-and-check and retaining information:

- At about 7 p.m. on 22 September, more than 10 students representing the Hong Kong Federation of Students and Tertiary Students Political Reform Concern Group gathered at the protest area outside the Chief Executive’s Office, demanding conversation with LEUNG Chun-ying. Police recorded their identity cards, for possible charge of disorderly conduct at public places.²¹⁹ After answering to the media, LEUNG Chun-ying walked to the protest area to accept petition letters. Some student representatives dashed out of the protest area and were stopped by the security staff. LEUNG Chun-ying accepted petition letters from other organizations and left, disregarding the students. Police then recorded the identity cards of the students.
- On 29 September, a number of citizens gathered at the Edinburgh Place, planning to move supplies to the protest area by hand-pulled trucks. They were obstructed by police repeatedly. “Police demand to record identity cards and search each box one by one!” the citizens moaned. Police told them that “the assembly inside the protest area is illegal”. TSANG Chi-ho, a media person on the spot, argued with police, “If you think we are sending supplies to support an illegal assembly, you should just block us from entering the area.....You allow us to move in the supplies but require our personal information. This shows you are against individuals!”²²⁰

²¹⁶ “Police priority this year: Striving for public support and understanding, Tsang Wai-hung: Citizens should not play the role of judge in the case of 7 policemen”, A08, *Ming Pao*, 28 January 2015.

²¹⁷ “As many as 320 arrested in Gau Wu”, *Oriental Daily*, 22 January 2015, A02.

²¹⁸ News.gov.hk, 29 November 2014.

²¹⁹ “Federation of Students violently confronts Chief Executive, Alex Chow and Lester Shum suspected of breaking the law, police will follow up”, A01, *Ta Kung Pao*, 24 September 2014; “Federation of Students pull apart mills barriers during their petition at Chief Executive Office”, A06, *Sing Tao Daily*, 24 September 2014; “Federation of Students dash out”, A06, *Ming Pao*, 24 September 2014.

²²⁰ “60 drivers buy bottled water out of their own pockets, Van that has made 300 trips to transport supplies is stopped by police”, AAA7, *Apple Daily*, 29 September 2014.

- Police repeatedly stopped and checked protesters in the streets, as a means of deterring citizens. Many citizens worried about police taking down their identity card information, which might prohibit them entering Mainland of China. This can be shown in the following incidents.
 - On 12 October, the stop-and-check of protesters by the police stirred up disturbance of the masses. A protester was arrested by the police.²²¹
 - On 26 November, police kept driving away protesters towards Yau Ma Tei, up to the area around Changsha Street. Police stopped and checked persons entering Portland Street from Nathan Road, recording their identity card information.²²²
 - On 11 January, about 40 protesters attended the “information sharing session for people with personal data recorded by police”.²²³ Protesters concerned about their personal information being released to the immigration departments of Macau and the mainland; they also worried about the information being kept by police for a long period of time. Currently, there is no legislation requiring police to dispose the information and there is no limit on the period of investigation. Citizens feared that recording identity card is a way of white terror.
 - Adrian CHOW, a professional in music, was arrested at the final clearance of the Admiralty site. Police also recorded his identity card on the first day of “gau wu” (a form of protest by walking and staying on the road with the excuse of shopping).
 - Mr. YUEN of jewelry-finishing industry expressed his support to Student Front member Alvin CHENG in December. As a result, YUEN’s identity card was recorded by police. He was apprehensive of being imposed restrictions and refused entry to the mainland. As he needs to work in Shenzhen on regular basis, he worried about being blacklisted.
 - Ms. LAM, a participant in the Mong Kok “gau wu” (shopping) group, said having her identity card recorded by police exerted psychological pressure on her. She reproached police for treating “gau wu” as illegal gathering but could not produce concrete evidence for prosecution. It was shameful that police intimidated citizens by recording identity cards.
- After the clearance on 11 December, Assistant Commissioner of Police CHEUNG Tak-keung said that “a total of 909 people were allowed to leave the area after police had recorded their personal particulars. Police may pursue criminal liability against them later.” “During the process, most of the illegal occupiers did not resort to violence or provocation to resist or obstruct police enforcement actions,” he added.
- On 13 December, a number of people went “gau wu” (shopping) in Mong Kok. At least 17 persons refused to present their identity cards and were arrested for alleged offences of taking part in unlawful assembly and obstructing police officers. Civic Party Vice-Chairman Tanya CHAN was on the scene. She requested to visit the “fish ball noodle” shop opposite the police operation site, but was once refused by police.²²⁴

²²¹ “Mong Kok On-the-Spot (02:17)”, *inmediahk.net*, 12 October 2014.

²²² “Clearance becomes arrest, protesters accused of unlawful assembly, 80 arrested”, A03, *Ming Pao*, 26 November 2014.

²²³ “Adrian Chow being searched for alleged littering”, A13, *Apple Daily*, 11 January 2015.

²²⁴ “[Fan’s analysis] Human right lawyer: Police Force Ordinance spells out that ID cannot be checked at will”, 852 *Channel*, 14 December 2014; “Tanya Chan queries why ID information has to be recorded for eating fish ball noodles”, *inmediahk.net*, 14 December 2014.

Intentionally not showing police warrant card and concealing police identity

A number of plainclothes and uniformed police officers allegedly violate the Police General Orders by not showing their warrant cards and obscuring badge numbers. According to section 14 of Chapter 20 of Police General Orders,²²⁵ “An officer in plain-clothes when dealing with members of the public and exercising his police powers, whether he is on or off duty, shall identify himself and produce his warrant card.” The Independent Police Complaints Council mentioned in its report in 2011 that, during the visit by the Vice Premier Li Keqiang to Laguna City, two plainclothes police officers stopped and checked a man without showing warrant cards; the allegation was found substantiated.²²⁶

Regarding uniformed police officers, they need to comply with paragraph 4 of section 14 in Chapter 20:

Uniformed police officers should produce their warrant cards upon request by members of the public unless:

- (a) circumstances do not allow; or
- (b) to do so would prejudice the police action and/or safety of the officers concerned; or
- (c) the request is unreasonable.

If a police officer in uniform is unable to produce his warrant card at the time of the request as required by paragraph 4(a) and (b) above, the officer should produce the warrant card at the earliest opportune moment. Only where police officers do not produce their warrant cards, either because the request for production was unreasonable or it could not be subsequently complied with, must an explanatory notebook entry be made.

- On 18 October, quite a number of uniformed police officers in Mong Kok used their reflective vests to obscure their badge numbers; and there were also plainclothes police officers executing duties without putting on their warrant cards. Prior to conflicts, police officers concealed their badge numbers with their reflective vests. When they were on guard, they still refused to show their identity despite repeated requests by the citizens.
- On 24 October, Mr. CHENG filmed and followed two police officers who did not put on their warrant cards. He was stopped at Fife Street and was surrounded by 6 to 8 policemen, who demanded him to show his identity card and delete the short video filmed by him. Mr. CHENG insisted on his right of filming and refused the request. Legislative Councillor Ms. Claudia MO mediated between two parties, who finally agreed to leave.²²⁷
- Student Front member Alvin CHENG said that there were many cases of police stopping and checking citizens without showing their warrant cards, “...on 24 October, I was checked by Superintendent LAM Shu-wing, who did not show his warrant card. The second time was during the demonstration in Tsim Sha Tsui.”²²⁸

On 22 October, Chief Superintendent of Police Public Relations Branch HUI Chun-tak admitted that there would be individual cases of police officers dressing up wrongly in a rush.²²⁹ On 15 December 2014,

²²⁵ <http://www.police.gov.hk/info/doc/pgo/en/Eppo020.pdf>

²²⁶ “Superintendent Lam Shu-wing insists: No warrant cards, so what? Police magazine criticized as shallow”, 852 *Channel*, 24 December 2014.

²²⁷ “Mong Kok On-the-Spot (2:00)”, *inmediahk.net*, 24 October 2014.

²²⁸ “Police complained of not wearing warrant cards while on duty”, A06, *Apple Daily*, 24 December 2014.

²²⁹ “Police criticized for covering warrant cards with reflective vest, Hui Shun-tak: Mistake in a hurry”, *Ming Pao*, 22 October 2014.

Commissioner of Police TSANG Wai-hung said in response to media inquiries that, in order to prevent crimes and conduct investigation, police officers would decide whether or not to show identity, depending on the circumstances. However, a police officer has to show his warrant card when exercising his police power. If any citizen is dissatisfied with the practice of any police officer, he can complain to the Police.

2.3 Excessive arrests

The power of police to arrest is provided for by section 50 of the Police Force Ordinance, including:

- (1) It shall be lawful for any police officer to apprehend any person who he reasonably believes will be charged with or whom he reasonably suspects of being guilty of- (a) any offence for which the sentence is fixed by law or for which a person may (on a first conviction for that offence) be sentenced to imprisonment.....

According to the figures provided by the Security Bureau and Police, during the Occupy Movement, a total of 955 people were arrested by police for various alleged offences, and another 48 persons were arrested by police after the Movement, bringing the total to 1003 people. Some of them have already been convicted of criminal offences such as indecent assault, common assault, possession of offensive weapons, theft, criminal damage, criminal intimidation, possession of Part I poisons or careless driving etc.²³⁰

Legislative Councillor Gary FAN raised the issue of excessive arrests, saying, "Some participants in social movements have relayed to me that since the occurrence of the Occupy Movement on 28 September last year, the Police have spared no efforts in suppressing social movements, including making indiscriminate arrests and prosecutions of the persons concerned."²³¹ Police responded by providing the following figures:

	2013	2014	2015 (up to 28 February)
Number of public order events	6166	6818	891
Number of public order events resulting in prosecutions	29	48	4
Number of persons arrested in relation to public order events in the year	82	1726	44
Number of persons prosecuted in relation to public order events in the year	41	163	14
Offences prosecuted	Common assault, criminal damage, taking part in unlawful assembly etc.	Taking part in unlawful assembly, obstruction in public place, possession of offensive weapon, common assault, assaulting Police officer etc	Fighting in public place, taking part in unlawful assembly, assaulting Police officer etc.

²³⁰ LCQ5: Arrests and prosecutions in relation to public order events, Press Releases, 13 May 2015.

²³¹ LCQ7: Arrests and prosecutions in relation to public order events, Press Releases, 25 March 2015.

Police responded, “Police officers are entitled to effect an arrest provided that they have a reasonable suspicion that the person in question has committed a relevant offence. They are not required to consider matters, such as public interest, which would have to be considered by the Department of Justice. Due to such differences, the mere fact that an arrested person is not subsequently charged with any criminal offence does not necessarily mean that the Police have made a wrongful arrest; nor does it necessarily follow that the prosecutors have failed in their duty to commence prosecution.”

Past information²³² shows that a total of 444 people²³³ were arrested by police during public order events in 2011, but only 54 of them, or a mere of 12%, were prosecuted. Back then, police were already criticized for selective prosecutions and excessive arrests. From 2004 to 2012, excluding 2005 (the year of WTO meeting with 1,151 protesters arrested) and 2011, the rate of prosecution for the remaining years ranged from 26% to 86%. The average prosecution ratio was 47.5%²³⁴

Ratio of prosecution / arrest

Year	Ratio of prosecution / arrest
2004	33.3%
2005	0.6%
2006	30.43%
2007	86.67%
2008	48.71%
2009	46.67%
2010	26.3%
2011	12.2%
2012	55.35%
2013	50%
2014	9.44%
2015 (up to 28 February)	31.8%

Information provided by news.gov.hk and NowTV, counting cases up to 25 May 2015, shows that 955 persons have been arrested for committing various offences relating to the Occupy Movement. Of them, only 48 have been prosecuted. The ratio, at only 5%, is obviously low.

In addition, police have evidently arrested or prosecuted protesters under a wider range of ordinances, leading to questions about the appropriateness of the prosecutions. According to Eric CHEUNG Tat-ming, Principal Lecturer of the School of Law of University of Hong Kong, “unauthorized assembly” under section 17A of the Public Order Ordinance relates to peaceful demonstration; only that the organizer has not applied for the Letter of No Objection as required by law. Participating in an unauthorized assembly is in general a lesser offence, mostly resulting in a fine only. The convener and organizer may be imposed a heavier punishment by the court, which may include imprisonment. On the other hand, “unlawful assembly” under section 18 of

²³² “1726 arrested during public processions and assemblies last year, less than 10% prosecuted”, *inmediahk.net*, 27 March 2015.

²³³ LCQ3: Public meetings and processions, Press Releases, 19 December 2012.

²³⁴ LCQ18: Public meetings and processions Annex 3

http://gia.info.gov.hk/general/201303/27/P201303270454_0454_108852.pdf

Public Order Ordinance relates to demonstration involving disorderly manner, injury and property damage. This is a more serious offence, more liable to imprisonment. The maximum sentence under both ordinances is 5 years of imprisonment.

The police are also charging protesters with other offences, and the legal principles behind, if any, are unclear. Charles Peter MOK, Legislative Councillor from the Information Technology Constituency, raised an oral question at the Legislative Council meeting on November 5, "When the authorities amended the Crimes Ordinance in 1993, section 161 was added to provide for the offence of "access to computer with criminal or dishonest intent" ("section 161"). The then Secretary for Security explained that the new section 161 was aimed at "penalizing access to a computer for acts preparatory but falling short of the commission of a fraud." He queried that police, in applying this ordinance to arrest protesters, have deviated from the legislative intent.²³⁵

Besides, police have not fully taken into account of related Bill of Rights in arresting children. This situation is disconcerting.²³⁶

Apart from the general provisions in the Bill of Rights Ordinance, Article 37(b) of Conventions on the Rights of the Child states that, "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."

UN Committee on the Rights of the Child published the General Comment No.10 (2007) "Children's rights in juvenile justice"; paragraph 80 reads:

"An effective package of alternatives must be available (see chapter IV, section B, above), for the States parties to realize their obligation under article 37 (b) of CRC to use deprivation of liberty only as a measure of last resort. The use of these alternatives must be carefully structured to reduce the use of pretrial detention as well, rather than "widening the net" of sanctioned children. In addition, the States parties should take adequate legislative and other measures to reduce the use of pretrial detention. Use of pretrial detention as a punishment violates the presumption of innocence. The law should clearly state the conditions that are required to determine whether to place or keep a child in pretrial detention, in particular to ensure his/her appearance at the court proceedings, and whether he/she is an immediate danger to himself/herself or others."

Scholarism worried about the abuse of power of arrest by police towards the students. In particular, more and more minors were arrested. The youngest was only 13 years old.²³⁷

On 23 December, a 14-year-old girl drew flowers with a piece of chalk on the "Lennon Wall" outside the Central Government Offices. She was surrounded by 14 police officers and was arrested for alleged offence of criminal damage. She was detained overnight for 17 hours, before allowed for release on bail. Police then applied for a care and protection order for the girl.²³⁸

The 14-year-old Student Awaken convener Gary CHEUNG Chun-ho participated in the Occupy Central rehearsal on July 2. He was the youngest among the 511 arrested protesters who stayed overnight at Chater Road. On 25 November, CHEUNG was arrested by police for "contempt of court" and

²³⁵ "Abusing the offence relating to dishonest use of computer to arrest people", *Apple Daily*, 6 November 2014.

²³⁶ "We are concerned about suppression of children's rights in peacefully expressing their rights to freedom", Amnesty International Hong Kong. <http://www.amnesty.org.hk/web/?p=8522>

²³⁷ Scholarism, "Concern about police excessively arresting underaged students, Call on law enforcement personnel to stop power abuse", <http://www.inmediahk.net/node/1032467>.

²³⁸ "Social worker explains Care and Protection Order for minors", *inmediahk.net*, 31 December 2014. "Police abuse procedures to produce white terror", Hong Kong Social Workers' General Union, 31 December 2014.

“obstructing a public officer” during clearance of Argyle Street in Mong Kok. He recalled that he was “seized tightly” by about 20 police officers during the arrest; and one policeman shouted to him, “Yes, it’s you. We catch you!” He said at that time, the 20 police officers “rushed at him and seized hold of him.” According to CHEUNG, prior to the arrest, he was negotiating with the bailiff and appealed to the mass to leave. The site was very crowded and he was pushed to the front of police cordon. At the police station, he requested to call home but police only agreed to make the call on his behalf. He said that police “set the air-conditioner fairly cold” and kept mocking at him. At 4 a.m. on 26 November, police told him they would apply for a care and protection order and “would send him to Boys’ Home”. At 7 a.m., CHEUNG was sent to the Eastern Law Courts. Since there was no courtroom available, police once considered sending him to the Fanling Law Courts. Hearing was finally conducted at the Eastern Law Courts at 1 p.m. and the case was postponed to mid-January for trial again. The third arrest was on 14 December. CHEUNG was having “fish ball noodles” with friends at Mong Kok when police set up cordon for identity checking. After checking his information, CHEUNG was arrested. At the police station, apart from recording his identity card, phone number and residential address, police also asked for phone numbers of his family members and the school he was attending, etc. A policeman said to him, “Thereafter, you should watch out when you walk in the street.”²³⁹

The following section will comprise four parts: (1) arrests directly related to the Movement; (2) other related charges; (3) defective arrest process; and (4) discriminatory law enforcement.

2.3.1 Arrests directly related to the Movement

At the press conference on 15 December, Commissioner of Police TSANG Wai-hung remarked that, from 28 September to 15 December, “a total of 955 persons have been arrested for committing various offences relating to the illegal occupation.” In addition, 75 persons turned themselves in to police. “Our target is to complete all investigations within three months.”

Events include:

- At about 10:30 p.m. on 26 September,²⁴⁰ Joshua WONG was arrested for offences of forcible entry into government premises, disorderly conduct in public place and unlawful assembly. Earlier, Oscar LAI said one of the accusations was that Joshua WONG was “suspected of assaulting police officer”. He added that the word “suspected” implied no direct assault of police by Joshua WONG; “a mere touch” could also mean assaulting a police officer.²⁴¹ At about 9 p.m. on 27 September, police, with search warrant, escorted Joshua WONG to his home at South Horizons. WONG’s parents were at home and he was accompanied by his lawyer. After searching the flat for about two hours, police took away a number of exhibits, including several computers, SD memory cards, USB, mobile phones, etc. The exhibits were wrapped by newspapers in batches and then put in police exhibit envelopes. WONG once was charged with assaulting police officer. But this was subsequently dropped. Three other

²³⁹ “Tsang Wai-hung pre-announces bidding time for revenge, Minors may be targeted”, *inmediahk.net*, 16 December 2014.

²⁴⁰ “Joshua Wong taken away by police for alleged attack on police (22:52)”, the News, Instant New, *Ming Pao*, 26 September 2014; “Class boycotts turn into clashes, Joshua Wong arrested, Pepper spray hit students”, A02, *Ming Pao*, 27 September 2014; “Joshua Wong arrested, 4 police and students taken to hospital, Class boycotts turn into violence, Central Government Offices stormed”, A01, *Oriental Daily*, 27 September 2014; “Police get warrant to search Joshua Wong’s home at 9:00a.m.(23:37)”, the News, Instant News, *Ming Pao*, 27 September 2014; “Police search homes of Joshua Wong, Alex Chow and Lester Shum”, A01, *Oriental Daily*, 28 September 2014; “Writs of habeas corpus granted, Joshua Wong returns to Central Government Offices, Detained for 45 hours, Judge order police to release Wong”, A09, *Sing Tao*, 29 September 2014; “Preliminary report of 9.28 Civic Watch on Police”, A22, *Hong Kong Economic Journal*, 3 October 2014.

²⁴¹ *inmediahk.net*, 27 September 2014.

charges, including unlawful assembly, were laid. Police refused to release WONG on bail pending investigation. Police fully exercised the power of detention of suspect for 48 hours in treating WONG. WONG's parents issued an open letter to question if their son's detention was political persecution. On 29 September, WONG's lawyer applied for the writ of habeas corpus to prohibit further action by police. The Judge emphasized in the court verdict that while it was lawful for police to arrest Joshua WONG, the long detention of over 45 hours was unreasonable. This violated section 52 of the Police Force Ordinance. The court ordered immediate release of Joshua WONG from detention.

- On the morning of September 28, Legislative Councillors Albert HO Chun-yan, Emily LAU Wai-hing, Fernando CHEUNG Chiu-hung and Alliance for True Democracy convener Joseph CHENG Yu-shek were taken away by police when they intended to move the detained sound equipment to the protest site.²⁴² According to HO, police did not declare the assembly as unlawful and they also did not disperse protesters. But they did not allow them to move the sound equipment to the site. An Occupy Central organizer said that police had stopped them from moving in the sound equipment for over five hours. If this continued, they would look for another possible delivery route. Earlier, police even tried to snatch the sound equipment but was obstructed by about 300 citizens at the spot.²⁴³
- From 3 October to 21 October, police have arrested 94 people at the occupied site in Mong Kok,.... aged from 18 to 71, for offences of Common Assault, Criminal Damage, Disorderly Conduct in Public Place, Resisting Arrest, Obstructing a Police Officer, Possession of Offensive Weapon, etc.²⁴⁴
- On 2 November, Chief Superintendent of Police HUI Chun-tak remarked that there were crimes taking place in the occupied areas every day; and up to that date, 319 people were arrested. He added that for the purpose of preventing and detecting cyber crimes, police may request internet service providers to provide necessary information in order to assist in the investigation. From 26 September to 2 November, police arrested 12 persons for the offence of access to computer with criminal or dishonest intent.²⁴⁵
- On 13 November, 31 citizens who were arrested amidst the conflicts at Lung Wo Road reported to the Central Police Station. Some of them refused to be released on bail. League of Social Democrats member LEE Sin-chee, one of the arrestees, said that she did not participate in the Occupy Movement at Lung Wo Road. She only joined the sit-in outside the Chief Executive's Office. She commented that police did not have sufficient evidence. They were only abusing the bail process. Eventually, all people were released by police without conditions.²⁴⁶
- On 21 November, police arrested 11 persons in connection with the storming of the Legislative Council Complex. The arrestees include Civic Passion member "Frenchman" and Local Press Chief Editor LEUNG Kam-chueng; 6 of them were not granted police bail and were escorted directly to the court on 22 November. Four persons were charged with criminal damage and two were charged with assault on police officer. Passion Times reported that six persons were released on a \$1,000 bail each, with court hearing on 19 January. During the course, they were ordered to stay at least 300 metres away from the Legislative Council Complex.²⁴⁷
- On 6 December, police arrested a 31-year-old man in Tseung Kwan O for "access to a computer with criminal and dishonest intent". He was released on bail, pending further investigation. Earlier, police noticed a message circulating on social media networks on mobile phones, calling on people to gather

²⁴² "Albert Ho, Emily Lau, Fernando Cheung and Joseph Cheng taken away (11:54)", the News, Instant News, *Ming Pao*, 28 September 2014.

²⁴³ (11:09), *inmediahk.net*, 27 September 2014.

²⁴⁴ *news.gov.hk*, 21 October 2014.

²⁴⁵ "Crimes every day at occupied sites, 319 arrested, 65 police hurt, Journalists become attack target, 8 reported to police", A04, *Hong Kong Daily*, 2 November 2014.

²⁴⁶ "Lung Wo Road arrestees refused to be released on bail", *inmediahk.net*, 13 November 2014.

²⁴⁷ "11 arrested for storming LegCo building", *inmediahk.net*, 21 November 2014.

at Mong Kok and the Legislative Council during the Christmas period to take part in illegal assemblies there.²⁴⁸

- On 10 December, hours before the clearance of the occupied Admiralty site, police launched sudden arrest of a number of citizens. At about 11 p.m., League of Social Democrats vice chairman Raphael WONG Ho-ming was arrested by four plainclothes policemen near his residence in Shatin. He was arrested on suspicion of attending and inciting others to take part in an unauthorized assembly. At 6 a.m., SO Ho, an assistant of People Power Executive Committee member and Legislative Councillor Raymond CHAN Chi-chuen, was arrested at his home in Mong Kok, on suspicion of attending unauthorized assembly in November. Civic Passion founder WONG Yeung-tat and Student Front core member CHENG Kam-moon were also arrested on suspicion of taking part in, convening and organizing an unauthorized assembly.
- During the clearance on 28 November and 11 December, police made a number of arrests. At the clearance of the Admiralty occupied area on 11 December, police arrested 209 people, for the offences of unlawful assembly and obstructing police in execution of duty. Police said, “Regrettably, the remaining illegal occupiers refused to leave. Despite numerous police advice and warnings, they behaved in an uncooperative manner. At about 4.25 p.m. on 11 December, police started arresting those who continued to engage in the unlawful assembly so as to re-open the roads.”
- At the press conference on 13 December, police mentioned that protesters in Mong Kok were warned of “taking part in an unauthorized assembly”. Subsequently, police arrested 7 persons, including two wanted persons while the remaining five were arrested for “obstructing Police officer in the execution of duty”, “failure to produce identity card on demand” and “fighting in a public place”.²⁴⁹

2.3.2 Other related charges

Protesters may be charged for other offences due to their participation in political or public activities:

- On 26 November, after the clearance of the occupied Mong Kok site by police, League of Social Democrats member CHOW Ka-fat transported supplies to Admiralty. He was arrested by police for “attempts to steal”, which was later changed to “gathering articles for unlawful purpose”. Investigation is still in progress. CHOW was escorted by five policemen to search his home. Police searched his bedroom and computer, and took photos to secure evidence. Police disclosed that the concerned person was now charged with “gathering articles for unlawful purpose”, but not “attempts to steal”.²⁵⁰
- On 4 October, the mass of protesters were in conflict with police at the intersection of Tong Mi Road and Argyle Street. CHEUNG, a truck driver, passed by and parked his truck in the street. Soon he was dragged out of the car by police, pinned to the floor and arrested. Later, CHEUNG was released and returned to the site. He claimed that he was only driving home and saw a lot of police in the street. He did not come into contact with police but was charged for assaulting police officer.²⁵¹

²⁴⁸ “Man with no party affiliation but close to League of Social Democrats arrested for inciting assembly during Christmas”, A04, *Sing Pao*, 7 December 2014; “Police arrest advocate on internet to block Christmas gau wu”, A04, *Apple Daily*, 7 December 2014.

²⁴⁹ Opening remarks by Police Chief Superintendent at press conference, *news.gov.hk*, 13 December 2014.

²⁵⁰ “League of Social Democrats member taken home by police for search, charged for “attempts to steal” yesterday”, *Apple Daily*, 27 November 2014; “Two members of League of Social Democrats transporting supplies from Mong Kok to Admiralty arrested”, A07, *Ming Pao*, 27 November 2014.

²⁵¹ “Driver passing by Mong Kok dragged down by police and arrested (09:13)” the News, Instant News, *Ming Pao*, 4 October 2014.

- On 5 November, Senior Superintendent of Police Traffic Branch Headquarters LEE Kwok-chung noted that seven large banners were hung from the railings of footbridges and roads. He said that if those banners posed immediate danger, they would be removed promptly; otherwise they would be referred to the related departments for handling. He emphasized that it was an offence to exhibit posters and banners at roadside without permission from the Lands Department or the Food and Environmental Hygiene Department.²⁵²
- On 6 November, a man used the flash light of his mobile phone to beam at police. Despite warnings, the man continued his acts. When police decided to arrest this man, another protester CHAN tried to obstruct police but was stopped and arrested for the offence of obstructing police officer. During the arrest, CHAN fell to the ground. He was beaten to bleeding from his mouth, and pressed against the iron railings. Subsequently he was sent to hospital for treatment. But the man using mobile phone flash light to beam at police had escaped.²⁵³ Chief Superintendent of Police Public Relations Branch HUI Chun-tak described the incident as “a radical man” repeatedly using the bright flash light of his mobile phone to shine on police officers at a close distance. The other man got injured because of his strong resistance and his fall. Reporters asked repeatedly how one could define using flash light as a provocative act. HUI again read from the script, “Members of the public do not need to worry. Incidents taking place in Mong Kok yesterday were provocative acts by some radicals and troublemakers.” “Fact is fact.” The case was brought to the court on 16 April 2015, and was queried by the Magistrate, “At that time, police stood in a line without marching forward. Even if they were being beamed at, this won’t obstruct them from carrying out their duties. I wonder if the prosecutor can lay a more appropriate charge.”²⁵⁴
- On 27 November, a man was filming with the flash lamp pointing towards police. A batch of uniformed police arrested him for using flash lamp to obstruct police officer from executing duties. A reporter of *Oriental Daily* was accused of pointing flash lamps towards police at short distance for over 20 times. Police recorded his personal information.²⁵⁵
- From 26 September to 6 November, at least 13 persons involved in Occupy Movement were arrested by police for the offence of “access to computer with criminal or dishonest intent”, including netizens calling people to participate in occupy Mong Kok and to charge police cordon. In response to an appeal of the international hacker group “Anonymous”, 11 persons were suspected of attacking the Hong Kong Government website and two persons were charged with “access to computer with criminal or dishonest intent”. A “Golden boy” advocated occupying Mong Kok and charging police cordon in an internet forum. He was arrested for the offences of “access to computer with criminal or dishonest intent” and “unlawful assembly”.²⁵⁶

²⁵² “Vertical and horizontal banners on footbridges and roads, Police: immediate removal if they pose danger”, A04, *Oriental Daily*, 5 November 2014.

²⁵³ “Dark night at Mong Kok, Clashes over flashlight lead to 15 injuries”, A04, *Apple Daily*, 7 November 2014; “Assaulting police by bright light, masked protesters intend to block roads, Clashes occur in Mong Kok and Central, 5 arrested by police”, A05, *Hong Kong Commercial*, 7 November 2014; “Police arrest inciter at Mong Kok, Hui Sir: Beaming at police with flashlight amounts to provocation”, P08, *Headline Daily*, 7 November 2014.

²⁵⁴ “Protester suspected of using flashlight to beam at police, Arrested for obstructing police from executing duties, Magistrate queries appropriateness of the charge”, *Apple Daily*, 16 April 2015.

²⁵⁵ “Mong Kok On-the-Spot (1:02)”, *inmediahk.net*, 26 November 2014; “Mong Kok On-the-Spot (00:53)”, *inmediahk.net*, 26 November 2014.

²⁵⁶ “Abusing the offence on dishonest use of computer, Police making arrests indiscriminately”, *Apple Daily*, 6 November 2014.

- On 27 November, a citizen shouted “dark cops” in the street and was pinned to the ground by police. The reason of the arrest was unknown.²⁵⁷
- On 23 December, police noticed that during the Christmas holidays and weekend, protesters “gathered in the vicinity of Mong Kok, blocking the roads and causing chaos. They not only affected the business of the shops there, but also caused serious nuisance to the residents nearby.” Police arrested 49 persons, for offences including "assaulting police officer", "obstructing police officer in execution of duty", "disorderly conduct in public place" and "criminal damage", etc.
- On 21 January 2015, Secretary for Security LAI Tung-kwok disclosed that police had arrested to date a total of 320 people in connection with “gau wu” (shopping) activity, for offences including disorderly conduct in public place, criminal damage, assaulting police officer and resist arrest, etc.²⁵⁸

2.3.3 Defective arrest process

The arrest process is also defective. Rather than being arrested, Occupy Movement protesters were “invited for a meeting” by police for investigation. At the same time, protesters may not be able to contact their lawyers.

- On 26 September, a number of students were arrested. The lawyers were obstructed in the course of contacting arrested protesters. They “could only talk to five persons in six hours”. The lawyers had to repeatedly request police to let them fulfill their duties of legal representatives of the arrested students.²⁵⁹
- During the period from 30 November to 1 December, police treated the protesters in a seriously inhuman manner. For example, sending injured arrested persons to a police station instead of hospital. When arrested persons requested to call home or lawyers, there was a lot of intentional delay. When arrested persons requested to use the toilet, some police responded, “how about giving you a piece of rubber band?” Some arrested persons could only communicate in English, but they were mocked by police as “disguised foreigners”. In addition, the protesters were “intentionally placed in the car park” with “fans running at full speed”. All these were very inhuman behaviors and acts of power abuse.²⁶⁰
- Police called up protesters involved in inciting, organizing and participating in the Occupy Movement, inviting them to the Wan Chai Police Station to assist in investigation. Police would fix the meeting time with the protesters and inform them ahead of the arrest. Police would caution the concerned party and take statement in accordance with established procedures. Police would then seek advice from the Department of Justice and decide on prosecution. As of January 7, a total of 23 persons were invited for investigation but none was arrested.²⁶¹

In response to a query on police's role in enforcement of injunction orders, Secretary for Security LAI Tung-kwok said, “Any police officer be authorized to arrest and remove any person who the Police officer reasonably believes or suspects to be obstructing or interfering any bailiff in carrying out his or her duties in enforcing the

²⁵⁷ “Mong Kok On-the-Spot (00:02)”, *inmediahk.net*, 27 November 2014.

²⁵⁸ “As many as 320 arrested for participating in gau wu”, A02, *Oriental Daily*, 22 January 2015.

²⁵⁹ “Writs of habeas corpus granted, Joshua Wong returns to Central Government Offices, Detained for 45 hours, Judge order police to release Wong”, A09, *Sing Tao*, 29 September 2014.

²⁶⁰ “Protesters condemn police for abuse of force and violation of human rights, Cases to be collected for complaints”, *inmediahk.net*, 7 December 2014.

²⁶¹ “Wan Chin advocates making shields, Will be charged for inciting unlawful assembly, Police pursuing Occupy Movement organizers, Agnes Chow of Scholarism: very frightening”, A04, *Sing Tao*, 7 January 2015.

terms of the injunction order, provided that the person to be arrested has been informed of the gist of the terms of the court order and that his action is likely to constitute a breach of the order and obstruction of the administration of justice, and that he may be arrested if he does not desist.” He reiterated that, “the Police shall give warnings to the persons involved by appropriate means before they start their arrest actions, so that the concerned persons will clearly know the contents of the court orders and the possible criminal offences resulting from their actions, as well as the possible consequences. The Police shall, before taking further actions, give such persons every reasonable opportunity to stop their unlawful acts.”²⁶²

2.3.4 Discriminatory law enforcement

There were incidents of violence in the occupied sites in Mong Kok and other districts. However, police did not take action to arrest the attackers, leading to queries of discriminatory law enforcement by police. The Independent Commentators Association issued a statement on 4 October, strongly condemning the violent attack of the peaceful protesters in Mong Kok. They demanded that police should not watch with folded arms and had to spare no effort in arresting the assailants.²⁶³ Discriminatory law enforcement also stirred up emotions of the public, leading to a number of conflicts. There were even speculations of police working closely with the triad gangs.²⁶⁴

- On 3 October, police arrested only two protesters, and possibly charged them for gang fight.²⁶⁵ Lawyer LAM Yiu-keung posted on facebook that badly beaten supporters of Occupy Movement were arrested instead....”they were beaten by the triad gangsters to bleeding, but most attackers ran away; instead protesters were charged with fighting in public.”²⁶⁶
- Protesters criticized police for not enforcing law, which amounts to encouraging violence and ignoring personal safety. They would certainly pursue the matter. “The police were standing there with folded arms, doing nothing. I was beaten by someone. Why didn’t police enforce law?” Instead, when Mr.

²⁶² LC Urgent Q: Police's role in enforcement of injunction orders, Press Releases, 20 November 2014.

<http://www.info.gov.hk/gia/general/201411/20/P201411200857.htm>

²⁶³ “Independent Commentators Association condemns violence, urge police not to just watch with folded arms (15:31)”, the News, Instant News, *Ming Pao*, 4 October 2014.

²⁶⁴ “Ex-triad gangster: Shing Wo and 14K meeting at Tai Po Police Station”, *inmediahk.net*, 4 October 2014; “Police new order”, *inmediahk.net*, 4 October 2014; “Causeway Bay On-the-Spot: New order at Causeway Bay night?”, *inmediahk.net*, 4 October 2014; “Occupy Central On-the-Spot: New order of Mong Kok night (12:35)”, *inmediahk.net*, 4 October 2014; Willis Ho, “Mong Kok On-the-Spot: Definitely a co-operation between the triad gangs and the police”, *inmediahk.net*, 4 October 2014; “Mong Kok On-the-Spot (22:30)”, *inmediahk.net*, 3 October 2014; “Mong Kok On-the-Spot: Interviews of Mong Kok volunteers”, *inmediahk.net*, 3 October 2014.

²⁶⁵ “Frequent clashes at Mong Kok, many injured, police criticized for doing nothing (21:06)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Nathan Road crowded with people, police urge people to consider safety issues(18:53)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Police shout over loudspeakers, saying protesters are threatening public safety (22:09)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Clashes at Mong Kok, protesters feeling unwell taken to hospital (17:24)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Saving our Mong Kok with our own efforts, expel the ruffians”, A02, *Apple Daily*, 4 October 2014; “Federation of Students shelves dialogue with government, Clearance by anti-protesters leads to clashes”, A01, *Hong Kong Daily*, 4 October 2014; “Masked men at Causeway Bay clash with protesters at Sogo (19:29)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Counter-protesters at Causeway Bay intend to remove mills barriers, leading to clashes (13:22)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Protester: news of triad gangsters going to Causeway Bay (19:07)”, the News, Instant News, *Ming Pao*, 3 October 2014; “Mong Kok and Causeway protest areas lose ground, Counter-protesters clear sites, Clashes ensue”, A04, *Hong Kong Economic Journal*, 4 October 2014.

²⁶⁶ “Protester beaten to bleeding arrested instead”, *inmediahk.net*, 5 October 2014.

HUNG stayed at the Kwong Wah Hospital, police came to arrest him for the offence of fighting in public. He was transferred to the Mong Kok police station. There was a lawyer there helping him.²⁶⁷

- In mid-October 2014, more than one hundred counter-protesters obstructed the publication of Apple Daily. High Court issued a temporary injunction order to prohibit any person obstructing the passages of the office building of Next Media to safeguard press freedom in Hong Kong. But counter-protesters disregarded the court order and tore up the injunction order copy. Police on the scene did not stop them, nor did they execute the court's injunction order.²⁶⁸
- On 12 November, three men threw plastic bags filled with animal viscera and dirty water at Jimmy LAI Chee-ying. The protest patrols on duty got into a scuffle with the attackers, who were then bound with cable ties. Police arrived and arrested five persons, including the two patrols for the offence of fighting in public.²⁶⁹
- Seven police officers were arrested for alleged beating of Ken TSANG on 15 October. The arrest came on 26 November, a month-and-a-half after the alleged attack. However, police said the investigation was in progress and advice would be sought from the Department of Justice when it was finished.²⁷⁰

2.4 Expelling medical volunteers and journalists from the scene

For details on police expelling medical volunteers and journalists from the scene, please refer to sections 1.1.4 and 1.1.5. This part focuses on power abuse by police.

In relation to article 19 of the International Covenant on Civil and Political Rights regarding freedoms of opinion and expression, United Nations Human Rights Committee issued General comment No. 34, pointing out that, "A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society." Police General Orders chapter 39-05 provides that "All officers at the scene of an incident shall:- (a) facilitate the work of the news media as much as possible and accord media representatives consideration and courtesy; and (b) not block camera lenses."

²⁶⁷ "Counter-protesters stir up scuffles at Mong Kok day and night, 37 injured, protesters criticize police for not enforcing law", A02, *Ming Pao*, 4 October 2014; "Citizens have had enough, Thousands involved in clashes at Mong Kok", A01, *Ta Kung Pao*, 4 October 2014; "Conniving violence to attack Occupy Movement, Police make sure of the excuse to clear the occupied site, Federation of Students shelves dialogue with Government", A01, *Apple Daily*, 4 October 2014; "Passer-by weeps: police ignore our safety," A05, *Apple Daily*, 4 October 2014; "Clashes appear in Mong Kok, CY advises crowds to leave", A01, *Hong Kong Commercial Daily*, 4 October 2014.

²⁶⁸ "Counter-protesters breach injunction order and continue the siege of Next Media", *Metro Daily*, 20 October 2014; "Counter-protesters siege Apple Daily to block the transport of newspaper", *Hong Kong Economic Times*, 14 October 2014; "Ignore injunction order, dama and dashu surround Next Media again, Use strong flashlight to block reporters from filming", *Apple Daily*, 20 October 2014.

²⁶⁹ "Smelly waste thrown at Jimmy Lai, Scuffle at Admiralty, 5 arrested", A04, *Sing Pao*, 13 November 2014; "Pig viscera thrown at Jimmy Lai, police arrest 3 attackers and 2 volunteers", A06, *am730*, 13 November 2014; "Mong Kok On-the-Spot (21:50)", *inmediahk.net*, 13 November 2014; "Occupy Movement Live (15:00)", *inmediahk.net*, 13 November 2014; "Patrols overpower attack, only to be arrested, Police suspected of political motive", *inmediahk.net*, 13 November 2014; "Civil Human Rights Front criticize police for wrongful arrest, Urge for a withdrawal of charge", *inmediahk.net*, 13 November 2014.

²⁷⁰ "7 dark corner police arrested", *inmediahk.net*, 26 November 2014.

In response to cases of assaults on journalists at the early stage of the Occupy Movement, police had a very brief comment, saying “Regarding a number of journalists being assaulted last night (3 October), police would like to take this opportunity to remind frontline press and media workers to be vigilant of personal safety.”²⁷¹

On 2 October, police outside the Chief Executive’s Office arranged trucks transporting food and water to police on duty. Police requested protesters to give way, but an “explosive” sign was stuck on the trucks. Police stood in a line and pushed back protesters and journalists on the other side of mills barriers. A foreign journalist shouted, “Press” and police responded, “journalists should stand farther away”. But journalists did not retreat.²⁷²

On 3 October, a counter-protester was in conflict with protesters. Police took him away from the protest area. As they walked towards Argyle Centre to leave the site, more than one hundred protesters followed. Police tried to let the man go away by taxi outside Fa Yuen Street Municipal Services Building, but was stopped by protesters. Police then took the man to the Mong Kok Police Station. A TV reporter tried to get close to obtain more details, but was rebuked by police, who shouted, “Reporters, so what! We have nothing to tell you!” During the course, there were even policemen holding shields, forcing citizens and journalists to retreat.²⁷³

On 8 November, the Hong Kong Journalists Association said that despite having identified themselves, many reporters had been obstructed and pushed, and their news coverage was disrupted by police. Police responded that it was sometimes difficult to differentiate between journalists and protesters. The Association requested police to recognize the problem of hostile mentality and rude attitude of individual police officers towards journalists, such as using verbal expressions like, “Reporters, so what”.²⁷⁴ Hong Kong Press Photographers Association Committee Member HO Ka-tat and representatives of the Hong Kong Journalists Association met with Assistant Commissioner of Police LAM Man-wing and Chief Superintendent of Police HUI Chun-tak, discussing cases of violence towards journalists in their work. HO mentioned that they had received to date 25 complaints from reporters getting injured during their news coverage; therefore they demanded police to make a concrete undertaking to protect frontline journalists. But police only reiterated their close relationship with reporters, and said they would request frontline police officers to try their best to facilitate the work of journalists.²⁷⁵

On 29 November, at the intersection of Fa Yuen Street and Argyle Street, a policeman was so agitated that he kept shouting, “Reporters, so what? News coverage, so what? Get away! Get away!”²⁷⁶

Apple Daily photographer WONG Chun-lung²⁷⁷ was at the intersection of Soy Street and Sai Yeung Choi Street, shooting people crossing the road. Suddenly, he was pushed to the ground by policemen, handcuffed and arrested. In the video clips provided by South China Morning Post and Ming Pao, WONG was seen standing behind a policeman with his video camera raised to the level of the latter's forehead. Seconds later, the policeman turned around and his head hit the camera. He grabbed WONG by the elbow before more policemen surrounded WONG and wrestled him to the ground. WONG showed his journalist identification

²⁷¹ “Two triad gangs involved in Occupy and Anti-Occupy, Police target triad gangsters, 20 arrested”, A02, *Sing Pao*, 5 October 2014.

²⁷² “Police transport supplies to Chief Executive Office”, *Sing Tao Daily*, 2 October 2014; “Confrontation between police and protesters on transport of food”, *Apple Daily*, 4 October 2014; “Citizens continue to surround Chief Executive Office and Central Government Offices”, ATV News, 3 October 2014; “Police cheat protesters to give way, Rescue turns out to be weapon delivery”, A02, *Apple Daily*, 3 October 2014.

²⁷³ “Mong Kok On-the-Spot: Arrest in the front, release at the back (23:57)”, *inmediahk.net*, 3 October 2014.

²⁷⁴ “6 unions of media workers meet police, Urge police to follow up on the assault cases”, A08, *Hong Kong Economic Journal*, 8 November 2014.

²⁷⁵ “Six unions of media workers meet with police”, *inmediahk.net*, 7 November 2014.

²⁷⁶ “A citizen handcuffed and taken away”, *inmediahk.net*, 29 November 2014.

²⁷⁷ “Apple reporter arrested by police”, P10, *Metro Daily*, 28 November 2014; “Police alleged to be attacked turn and hit the video camera”, A06, *Hong Kong Economic Journal*, 29 November 2014.

and explained, "I'm just filming." Another Apple Daily reporter in the vicinity tried to reason with the police, but the latter said, "No need to explain." WONG was taken to the North Point Police Station. Having detained for more than six hours, WONG was released on a \$1,000 bail before the dawn of Friday. He was required to report to the police at the end of the following month. Another Apple Daily reporter LAM Po-yik was accused by a police officer of attempting to snatch his gun. Later, he was allowed to leave when the police officer found out the holster was in fact without a revolver.²⁷⁸

On 28 November, the Hong Kong Journalists Association expressed strong objection and indignation in view of the attacks on a number of journalists. They queried if front line police had lost control of their emotions in the Mong Kok clearance operations. Apart from using force to disperse citizens, police repeatedly obstructed journalists in their news coverage. Some even treated journalists with "shoving followed by arrest". As a result, the clearance was being carried out without effective media monitor. They criticized that since the Occupy Movement, police had been hostile towards the media. The atmosphere even got worse with the arrest and assault of NOW reporter LEE Siu-lung, seriously suppressing press freedom.²⁷⁹ On the same day, two reporters of Hong Kong In-media, while covering Mong Kok area, were driven away by police. The photographer tried to leave with his colleague, but only the former put on the journalist identification. They were stopped by police and the photographer was wrestled to the ground. Police queried them, "Who are you guys? Who are you guys? Show me your journalist identification!" In no time, he shouted, "Arrest them!"²⁸⁰

Chief Superintendent of Police Public Relations Branch HUI Chun-tak remarked,²⁸¹ "Regarding the arrest of a press photographer, Police stress that we will take enforcement actions in a fair and impartial manner regardless of the background or profession of the persons involved in the illegal acts."

He further added, "Police have all along respected the freedom of the press. You can see that the situation at the scene is often very chaotic. There are a lot of people holding mobile phones, cameras or small size camcorders, recording the scene among the crowds. Some individuals even behave in a provocative manner in an attempt to obstruct Police. Police understand that it is the duty of the press to make news coverage at the scene and we endeavour to facilitate the press in carrying out their duty. The Deputy Commissioner of Police (Operations) and myself met with the management of major media organizations this afternoon (November 28) to reassure them of our policy of respecting the freedom of the press. We also explained the operational difficulties faced by frontline officers in the midst of chaos at scene. We appealed for mutual understanding and mutual respect. Police officers will endeavour to facilitate the work of media as much as possible. Police would continue to deploy our Media Liaison Teams at the scene to provide coordination and mediation. At the same time, Police also appeal for the co-operation of frontline reporters to wear easily identifiable clothing to identify themselves, to heed Police officers' direction at the scene and avoid obstructing Police operations.

On 29 November, the former Police Assistant Commissioner NG Ka-sing did not agree that frontline reporters were obstructed in their shooting. He remarked that there were so many people holding cameras that it was difficult for police to identify journalists. Under "such chaotic situation", arresting journalists were separate events.²⁸² On the same day, the former Head of Police Management Services Department TANG How-kong said in a radio program that citizens had wrongly put their focus, treating police as imaginary enemy, and

²⁷⁸ "Apple reporter arrested by police", P10, *Metro Daily*, 28 November 2014; "Apple reporter released late in the night", *inmediahk.net*, 28 November 2014.

²⁷⁹ "Concerned about attacks and arrests of journalists, 5 news organizations report to police today", A02, *Hong Kong Daily News*, 29 November 2014.

²⁸⁰ "Video report: one of our reporters wrestled to the ground by police, Once being told he will be arrested", *inmediahk.net*, 28 November 2014. <https://www.youtube.com/watch?v=526LbHlbf-o>

²⁸¹ Opening remarks by Police Chief Superintendent at press conference, 28 November 2014, <http://www.info.gov.hk/gia/general/201411/28/P201411280968.htm>

²⁸² "Concerned about attacks and arrests of journalists, 5 news organizations report to police today", A02, *Hong Kong Daily News*, 29 November 2014.

hence placing police at the center of controversies. He admitted that police had limited ability to withstand pressure. They might become irrational under immense pressure.²⁸³

On 1 December, a number of medical volunteers were beaten by police. Chief Superintendent of Police Complaints and Internal Investigations Branch LAM Man-sai responded that the incidents resulted from misunderstanding, and would not have happened if police had known the persons were doing rescue. Under the chaotic situation, it would be difficult to identify in an instant. She added that the picture seen by Independent Police Complaints Council members was “a shot taken by many media journalists working diligently around the clock”. She hoped both sides would look at the case more comprehensively in handling the complaints.

Volunteer first-aiders Mr. LEUNG and Lillian were assaulted at the pedestrian way near the north lane of Lung Wo Road. According to them, police just beat whoever were on the road and insulted volunteer first-aiders. Police told them, “Actually we don’t need you. No one asked you to stay here. Once you stay, you become a protester.” On the site there were an injured person with heart problems and a pregnant woman. Upon request by first-aiders, police only allowed them to attend to the patients within a limited time and in a confined area. At the same time, first-aiders had to endure pain as police kept beating them with batons. They also suspected police had used stronger pepper spray. Unlike previously, injured persons could not open their eyelids as the internal muscle was as swollen as a quail’s egg. One first-aiders was beaten three times by police baton without advance warning as he was attending to a patient.²⁸⁴

2.5 Obstructing protest processions and assemblies; other improper behaviours

According to section 8 subsection 1 and section 13A subsection 1 of the Public Order Ordinance, notice of the intention to hold a public meeting shall be given in writing to the Commissioner of Police not later than 11 a.m. on the same day of the week in the preceding week as the day on which the meeting is intended to be held. Section 14 subsection 3A of the Public Order Ordinance states that the Commissioner of Police shall not issue a notice of objection for a public procession later than 48 hours before the notified commencement time of the procession.

In the LEUNG Kwok Hung case²⁸⁵, paragraph 22 of the judgment says “the right of peaceful assembly involves a positive duty on the part of the Government, that is the executive authorities, to take reasonable and appropriate measures to enable lawful assemblies to take place peacefully”.

The Hong Kong Federation of Students has pointed out that the system requiring letter of no objection is in essence a system requiring application for permit to hold procession or assembly. It is an outright denial of the civil right to procession and assembly and violation of article 27 of the Basic Law, article 17 of the Bill of Rights and article 21 of International Covenant on Civil and Political Rights – United Nations.²⁸⁶

According to the Hong Kong Human Rights Monitor, the International Covenant on Civil and Political Rights obliges the police over processions, assemblies and demonstrations at two levels. Obligation at the lower level

²⁸³ *Ibid*

²⁸⁴ “Hong Kong Shield criticizes collapse of police monitoring system, Advocates the setting up of independent committee to investigate cases in Umbrella Movement”, *inmediahk.net*, 9 December 2014; “Statement by medical volunteers condemning police for power abuse”, *inmediahk.net*, 2 December 2014.

²⁸⁵ (2005) 8 HKCFAR 229

²⁸⁶ This was mentioned in submission by the HK Federation of Students to the Legislative Council in 2007, LC Paper No. CB(2)2222/06-07(01).

is a negative one, namely, police are not to interfere, restrict, or prohibit those activities. At the higher level is a positive requirement, that police should actively assist the conduct of those activities. Instead of standing by and watching demonstrators face obstructions such as problems of traffic and violence, police should provide assistance to help ensure that demonstrations can proceed smoothly.²⁸⁷

Quoting Halsbury's Laws of Hong Kong, Amnesty International Hong Kong²⁸⁸ has also pointed out that the Government cannot deprive freedom of peaceful assembly on grounds including “possible occurrence of violent counter demonstrations, possible participation of extremists with violent intentions who are not the members of the organizing association”, or on grounds that the procession has conceivable risks, that organizer would be unable to keep things in control thus leading to disruption of public order.

It is noteworthy that there was no significant increase in public processions and assemblies in 2014, as police figures show. If there has been a substantive change in the manner the police deal with public events, they probably owe the public an explanation.

Year	2007	2008	2009	2010	2011	2012	2013	2014
Public Processions	968	1007	1017	1137	1515	1930	1179	1103
Public Assemblies	2856	3280	3205	4519	5363	5599	4987	5715
Total	3824	4287	4222	5656	6878	7529	6166	6818

The following section covers: (1) obstructing protest activities; and (2) other improper behaviours (such as acceptance of financial assistance, and involvement in political activities, etc).

2.5.1 Obstructing protest activities

During the Occupy Movement, police not only fell short of discharging its full responsibilities but also purposely brought about hindrance and was inimical to citizens’ right in holding processions and demonstrations.

- At mid-day on 25 September, the Federation of Hong Kong Students initiated a procession in Central without obtaining letter of no objection from police. Police displayed the yellow sign of warning and claimed that participants might face criminal prosecution as the procession was not authorized.²⁸⁹ In

²⁸⁷ Hong Kong Human Rights Monitor: police ban on sidewalk booths infringes on civil right, 8 December 2012. <http://www.inmediahk.net/hm> °

²⁸⁸ Right to peaceful assembly – an outline of international standards, “Human Rights” magazine by Amnesty International Hong Kong, 25 December 2013.

²⁸⁹ “HK Federation of Students marched without approval, Received warning”, A07, *Hong Kong Commercial Daily*, 25 September 2014; “Law Fan: Tensions too high, not right moment for talk, CY Leung urged by Federation of Students to talk, Deadline today”, P18, *Skypost*, 25 September 2015; “Boycott of classes entered 3rd day, 5000 people in assembly

the evening, after holding a gathering in Tamar Park and without obtaining letter of no objection, the students marched towards Government House. At least 200 police officers were present, forming a stronghold at the road entrance. At some point, police raised the “Stop charging or we use force” red banner because a loudspeaker held by a protester came in contact with a police officer. Police placed mills barriers at the entrance to Garden Road and continuously made amplified announcements to participants in the procession telling them to stay calm and follow police directions.²⁹⁰

- On the morning of 27 September, protesters intended to gather at the main entrance of the Government House to wait for LEUNG Chun-ying, Chief Executive, to appear as he left for office. When flatly refused by the police, about a dozen of students broke the police cordon line and went up to the section of the road facing the main entrance. They were soon surrounded by police with mills barriers. Police also took down personal particulars of the students.²⁹¹
- On 16 October, police for some time did not allow citizens to walk towards the Chief Executive Office on Lung Wo Road from Tamar Park. At some point, police claimed it was not cordoning but taking measure because of crowdedness²⁹²
- On 24 December, members of “Joint secondary-school student concern group on political reform” first gathered in Sai Wan Ho, and went to a number of bustling locations - such as Kornhill Plaza in Taikoo, entrance to the Hong Kong Brands and Products Expo in Tin Hau and Time Square in Causeway Bay - to sing “carols” which actually conveyed message about their wish on political reform. Police vehicle followed and filmed the group of students as they moved around swiftly. At some point, police raised the yellow banner of warning, claiming that the students were engaged in illegal assembly and should disperse at once. In particular, TAM Tak-chi was named for warning - that he was organizer of a procession without making application and must leave immediately.²⁹³

Though police often emphasized it would discharge their responsibilities in accordance with the law, they did not take prompt action to clear occupation sites, causing some people to question whether there had been selectivity or arbitrariness in law enforcement. On 21 December, TSANG Wai-hung responded to criticism by saying,²⁹⁴ “All along, the police have exercised its power of discretion. For instance, some rallies or assemblies took place without application in advance. They were illegal. But, in order to avoid greater confusion, police allowed them to proceed.” In retrospect, he described the police as “extremely tolerant and self-constrained all the time” and “did appeal to protesters to leave as well as involving negotiation experts, instead of resorting to the use of force alone”.

according to Federation of Students”, A28, *Hong Kong Economic Times*, 25 September 2014.

²⁹⁰ “Students come upon police cordon on Garden Road, Blocked from advancing (22:55)”, the News, Instant News, *Ming Pao*, 25 September 2014. “Government House surrounded by thousands, Leung Chun-ying wanted”, A01, *Apple Daily*, 26 September 2014; “Federation of Students overnight vigil outside Government House, Appeal to public for support, wait for Leung to show up for work; Leung says he respects students”, A03, *Ming Pao*, 26 September 2014.

²⁹¹ “Hundred of people surrounded Government House overnight, Eyes on CY Leung leaving for office”, A06, *The Sun*, 27 September 2014.

²⁹² “Admiralty On-the-Spot (21:54)”, *inmediahk.net*, 16 October 2014.

²⁹³ “Protest under disguise of “shopping” on Christmas Eve, provocative and causing nuisance incessantly”, A04, *Sing Pao*, 25 December 2014.

²⁹⁴ “Occupation being handled with utmost tolerance and self-restraint, head of police reiterates, Mobile, swift protests will be handled with quick, decisive action in accordance with law”, A03, *Hong Kong Commercial Daily*, 21 December 2014.

2.5.2 Other improper behaviours

The following concerns violation of Police General Orders. Cases cited are those that police chose to disclose.

Improper acceptance of financial assistance

According to South China Morning Post, ever since authority had been given for acceptance of donations - from both within police force and external parties - to help police officers affected by the movement, the amount received was close to HK\$10 million by 7 December.²⁹⁵

Chapter 6 of Police General Orders spells out the following:²⁹⁶

(4) A police officer shall not place himself/herself under financial obligation to any person or organization other than as permitted by the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 or this Order.

(18) A police officer shall not accept offers of entertainment from any person whom he/she suspects, or should suspect, is offering such entertainment in order to place the police officer in a position of obligation.

(20) A function for which payment is made collectively made by two or more members of the Force shall not be held without the prior authority of a Chief Superintendent, except when it is of a strictly private nature among personal friends ... There is no requirement to seek approval for activities organized by the various Staff Associations, the Police Credit Union, Police Messes, Police Sports Clubs and Police Arts Clubs for the benefit of their members and guests. The operations and membership of these organizations are governed by their respective constitutions, articles of association or the Ordinances under which they are established.

On 22 October, HUI Chun-tak, Chief Superintendent of Police Public Relations Branch, said in a press conference that the financial donation by some people to frontline police officers had been taken note of. He stated, "I would like to take this opportunity to make clear that acceptance of advantages by civil servants is governed by the Prevention of Bribery Ordinance and the Acceptance of Advantages (Chief Executive's Permission) Notice. Internally, police force has the Police Welfare Fund which was set up under the Police Force Ordinance. Before deciding whether or not to accept a financial donation, the Police Welfare Fund Management Committee will make scrutiny with rigorous procedures to ensure no conflict of interest. Review will also be made by the Civil Service Bureau. All these regulations are strictly adhered to by police officers when accepting advantage."²⁹⁷

As there exists some ambiguity in relevant legislations, there is concern whether the following cases of donation or fund-raising are proper.

Liberal Party donated HK\$300,000 to the Junior Police Officers' Association on 20 October 2014, giving the latter full discretion in handling the funds to be placed in designated accounts for front-line police officers.²⁹⁸

²⁹⁵ "South China Morning Post: donations in support of police approaching HK\$10 million, may be used to assist officers suspended from duty", *Post 852*, 7 December 2014.

²⁹⁶ <http://www.police.gov.hk/info/doc/pgo/tc/Cpgo006.pdf>

²⁹⁷ "Police should observe Civil Service Regulations in accepting donations", *Sing Pao*, 22 October 2014.

²⁹⁸ "James Tien donates HK\$300,000 to support police", *Hong Kong Economic Times*, 20 October 2014.

The Junior Police Officers' Association and the Hong Kong Police Inspector's Association held internal fund-raising activity, and sought permission to receive external donations. They do not rule out that the fund raised would be used to support the 7 policemen suspected of assaulting a protester.²⁹⁹

Participation in political activities

In addition to showing their support for clearance operations, which affects their impartiality, police have close relations with the government, which affects their neutrality in enforcing laws.

Chapter 6 of Police General Orders stipulates the following:

(17) Except as stated elsewhere in these Orders, information obtained by Police shall not be given to another Department or to a private individual without the authority of a Superintendent and above.

(34) A police officer shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his/her duties, or which is likely to give rise to the impression among members of the public that it may so interfere. In particular, a police officer shall not participate in political activities as defined at the head of this Chapter....

“Political activities” as defined at the head of the chapter include, for example: -

- (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;

The following are worthy of note:

- On 3 October, a footage of police officers distributing blue ribbons was captured inside Cheung Sha Wan Police Station.³⁰⁰
- On 26 October, some counter-protesters (the blue ribbon) shook hands with police officers. In response to press queries, HUI Chun-tak, Police Chief Superintendent of Police Public Relations Branch, said that those police officers were not handling the investigation of the suspected assault of counter-protesters on journalists. Shaking hands was normal and alright.³⁰¹
- On 25 November, some protesters shouted at the police, calling them “dark cops”. A police officer (PC1019X) shouted back, “I am a dark cop. So what? xxxx your mother!” A woman police officer hit a hollow metal bar, screaming, “Are you going to go? Go back to study.” Some police officers attached a light or a dark blue ribbon on the pocket carrying their warrants while they were carrying out their clearance operations.³⁰²
- On 2 December, a representative of the police received a letter of support from Leticia LEE See Yin and retired superintendent Joe SIN. Alliance in support of our Police Force and Blue Ribbon members went to Police Headquarters at Wanchai to show support for the police’s operations.³⁰³

²⁹⁹ “Two police organizations seeking approval to accept external donation”, *Apple Daily*, 21 October 2014.

³⁰⁰ “Occupy Central: Distributing blue ribbons inside Cheung Sha Wan Police Station, Wake up, Hong Kong people!” UP for HK. <https://www.facebook.com/UPforHK/videos/697820890308572/>

³⁰¹ “Reporters beaten, blue ribbon shake hands with police”, *inmediahk.net*, 26 October 2014

³⁰² “6000 police officers clear Mong Kok site; 5000 occupiers resist: scuffles at Portland Street”, A01, *Apple Daily*, 26 November 2014

³⁰³ “Alliance in support of our Police Force go to Police Headquarters at Wanchai to show their support”, *NowTV*, 2

Inappropriate behaviours, poor attitude and abusive language

Regulation 3 of the Police (Discipline) Regulations stipulates that the offenses against discipline include, among others:

- (c) conduct to the prejudice of good order and discipline; and
- (k) unlawful or unnecessary exercise of authority resulting in loss or injury to any other person or to the Government.

Regulation 3B provides that such offences may be filed or proceedings may be conducted: "Where it appears to an appropriate officer that there is a prima facie case of a minor offence on the part of an inspector or junior police officer, a statement of the facts in respect thereof may be entered on a document entitled Minor Offences Report which shall be the record of the case against such inspector or junior police officer.

Chapter 6 of Police General Orders stipulates the following:
6-07 Breaches of Discipline – General

- A police officer of or above the rank of SGT shall report any breach or alleged breach of discipline on the part of any police officer subordinate in rank to him/her to an appropriate senior officer verbally or in writing at the first opportunity.
- At the Mong Kok rally on the night of 3 October, Cable TV captured a footage of a few uniformed police making a thumb-down gesture, which provoked protesters and resulted in clashes. Police immediately warned protesters not to go near the police officers.³⁰⁴
- On the night of 5 October, a group of plainclothes police officers who claimed to belong to Anti Triad Squad were patrolling the pedestrian zone in Mong Kok, and dispersing the crowds. Along the way, they asked passers-by, "Go! Are you members of triad groups? If not, then leave!" Some police officers, with arms akimbo, echoed them, "Hey! Police are looking for triad members. Anyone belonging to triad groups? Let me tell you. The Anti Triad Squad is at work now!" A man in black clothes was taken away by the police.³⁰⁵
- On 6 October, while the police were checking a man in white clothes, the man remarked, "Don't we have freedom in walking along the street?" A police officer blasted, "What freedom? Are you a hooligan? I know you are a triad member by looking at your face." When the man denied the accusation, the police said to him, "Don't join demonstrations and create chaos!"³⁰⁶
- On 19 November, police announced after checking that they lost an extendable baton, a hamlet and two shields. Those items were subsequently found in a public toilet at Tamar Park.³⁰⁷

December 2014

³⁰⁴ "Police give protesters a "thumb down", *Ming Pao*, 5 October 2014. In accordance with Police General Orders, "A police officer, unless on duty in disguise, shall deport and attire himself/herself and appear at all times in a manner likely to reflect credit on the Force.

³⁰⁵ "Hundreds of officers from District Anti-triad Squad and Crime Squad to intimidate Mong Kok gangsters", A02, *Sing Pao*, 7 October 2014.

³⁰⁶ "Anti-triad squad make arrest on the street", A28, *Hong Kong Economic Times*, 7 October 2014.

³⁰⁷ "Radicals spread rumours on the net, Incite 200 people to attack the Legislative Council building, Clashes last for 6 hours, 6 "thugs" arrested", A02, *Sing Tao Daily*, 20 November 2014.

- On 26 November, a number of police officers shouted to protesters on the pavement, “There is so much space on the pavement. What are you doing here? Standing or moving? You are blocking other road users!” Some police officers claimed there were injured persons, and asked the pedestrians to make room so that the police could “look for the injured”.³⁰⁸
- On 25 November, the police set up a movable platform at the junction of Portland Street and Argyle Street. A reporter saw an agitated police officer standing on the platform making commands, “The man in black, don’t incite others. Video team, get him on video..... A red-white-blue plastic bag is passing from the front. Colleagues, please check whether the items inside will hurt us.”
- On 27 November, a police officer told Legislative Council member Fernando CHEUNG Chiu Hung to “go home to tend to your daughter”. “Your daughter is sick,” he said. (Cheung’s daughter is known to be mentally challenged.) Another officer told a Southeast Asian lady to “go back to India”.³⁰⁹
- On the morning of 1 December, three off-duty police officers were surrounded by some protesters. One of them fell onto the ground. Some other protesters formed a human chain to protect him. Someone picked up a police warrant card that probably belonged to the officer lying down. He immediately “sprang” up to take the card and then lay down again.³¹⁰
- On 1 December, police officers had group photos taken after dispersing the protesters at Lung Wo Road. There are criticisms that doing so affects the professional image of the police force.
- In the small hours of 1 December, police dispersed the protesters. While running, some protesters screamed, “Police, don’t hit again!” The police officers wielded their batons. “Go! Go!” they shouted repeatedly. Some police officers blatantly provoked the protesters, clapping their hands to tease the protesters.³¹¹ Some mass media captured footage of a man at the Admiralty Centre elevated walkway wearing a police vest. He showed his middle finger to protesters.³¹² Outside the Admiralty Centre, three plainclothes police officers hurled verbal insults at a protester. A lady protester answered back, and someone threatened to “take her back to the police station to rape her if she made further noises”.³¹³
- On 11 December, police officers had group photos taken on the spot after the clearance operations again. When asked about whether the circulation of such group photos on the internet would affect the public image of police, Andy TSANG Wai-hung said, “Colleagues had the photos taken after work. Provided that it did not affect their work or the general public, I think doing so is just human.”³¹⁴

³⁰⁸ “Mong Kok On-the-Spot (19:58)”, *inmediahk.net*, 26 November 2014.

³⁰⁹ Verbal violence about the handicapped, The Forthright Caucus, 27 November 2014.

³¹⁰ “Clashes at Lung Wo Road, 40 arrested, Many injured”, A22, *Hong Kong Economic Times*, 2 December 2014.

³¹¹ “Federation of Students and Scholarship admit escalation action has failed, Application for injunction at Admiralty successful”, *am730*, 2 December 2014; “Federation of Students apologize for failure in surrounding Central Government Offices, Occupy Central plans to announce their latest plans today”, A03, *Ming Pao*, 2 December 2014.

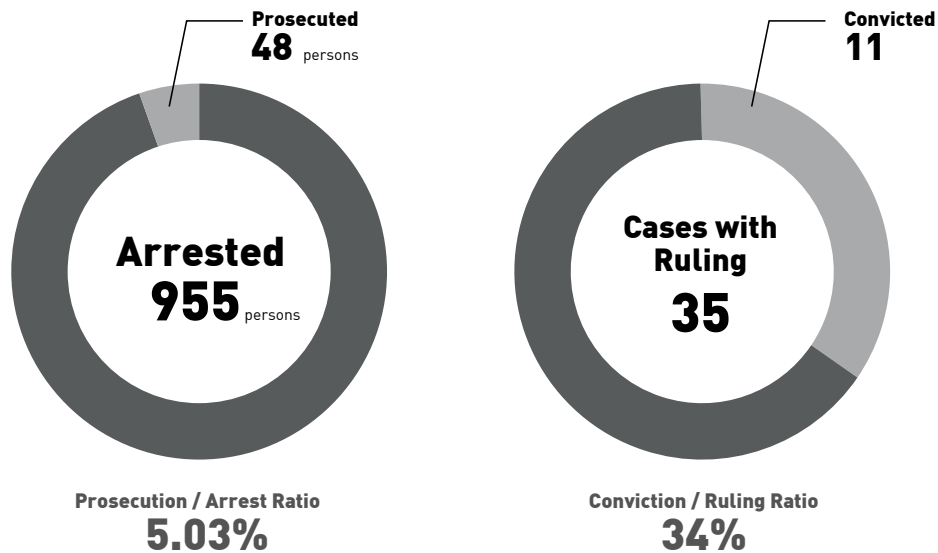
³¹² “Three plainclothes police officers suspected to have insulted women protesters are beaten”, A14, *Hong Kong Economic Journal*, 2 December 2014.

³¹³ *Ibid.*

³¹⁴ “Andy Tsang Wai-hung denies that police degenerate to political tool, Taking group photos after clearance operations is human”, *inmediahk.net*, 15 December 2014

2.6 Inappropriate prosecutions

During the Occupy Movement, police arrested nearly 1000 persons. However, even after 6 months, only about 5% were being prosecuted. Among those cases with ruling, around 66% were found not guilty or had the charges dismissed. The following table shows the information provided by news.gov.hk and NowTV, counting cases up to 25 May 2015:



What particularly warrants attention is that, among those brought before the court, at least 3 were reporters.

Detailed report

According to information released by police, 955 persons were arrested during the Occupy Movement, of whom 48 were prosecuted. But the government has not disclosed the total number that would eventually be prosecuted. NOW reporters went through reports on assaults on police officers, resisting police officers and obstructing police officers in the execution of duty. Up to 25 May, there were court rulings on 32 related cases. Among them, 11 cases were convicted, 15 found not guilty, and 6 dismissed. The rate of conviction is 34%.

Among the 22 court trials involving assault on police officer, the rate of conviction is 30%, lower than the 49.7% conviction rate at the Magistracy in 2014. Other cases were either found not guilty or had charges dismissed.³¹⁵

As reckoned by Stand News on 30 March, among the 112 persons arrested or brought before the court in relation to the Occupy Movement (including protesters and counter-protesters), cases involving 45 persons had been concluded. Among them, 4 were found not guilty, 15 had charges dismissed, 9 were offered no evidence bind over (O.N.E Bind Over), 5 found guilty and 10 pleaded guilty (6 of them are counter-protesters).³¹⁶

³¹⁵ "News Geek: 60% of police assault cases in occupy movement not guilty or dismissed", NOW News, 25 May 2015.

³¹⁶ "Statistics on Occupy related prosecutions (Part 1) 20% O.N.E. Bind Over, Human rights lawyer worry about misuse

In handling prosecution work, prosecutors of the Department of Justice must in accordance with the Prosecution Code first consider whether there is sufficient evidence when considering whether to prosecute. If so satisfied, prosecutors should next consider and balance all issues of public interest before deciding whether prosecution should be pursued. A prosecution shall not be commenced or continued unless there is reasonable prospect for conviction. All prosecution decisions are made in accordance with the law, the Prosecution Code and the evidence, totally free from any political, media or public pressure. On 13 May, in response to questions from the Legislative Council, the Secretary for Security said that the police have internal guidelines. The Police will seek legal advice from the Department of Justice before making prosecution decisions against persons arrested in relation to public order events. They will also follow up on Department of Justice's advice. He added, "Such guidelines are internal documents of the Police and cover how the Police investigate and handle cases and hence it is inappropriate to disclose the guidelines."³¹⁷

Insufficient evidence; conviction rate dropped to 34%

Information released in 2011 shows that the conviction rate of criminal cases at the Court of First Instance was 70% (excluding guilty plea). It went up to about 90% if guilty plea was included. Mr. WONG Yan-lung, SC, the then Secretary for Justice said, "... as reflected by the information, the figures over the years have remained quite stable without substantial changes in any specific area."³¹⁸ Compared with the above figures, the mere 34% conviction rate in respect of the Occupy Movement cases causes suspicions of inappropriate prosecution processes.

Conviction rate of trial at the Magistracy:

Year	2009	2010	2011	2012	2013	2014
Conviction rate	53.4%	51.6%	N/A	47.6%	47.0%	34%

On 23 May, in attending the luncheon meeting of the Hong Kong Public Administration Association, Mr. Rimsky YUEN, SC, the Secretary for Justice was asked by the audience that many of the accused in relation to the Occupy Movement cases were either having charges dismissed or found not guilty. Mr. YUEN replied that when the Department of Justice gave advice to the Police on whether or not prosecution should be pursued, they did not have all of the evidence. Sometimes, just before the trials, new video clips were available, which might make them change their mind and drop the proceedings. He remarked that sometimes the witnesses might be scared by the atmosphere of the court and refused to testify in front of the court, thus affecting the verdict.³¹⁹

Mr. Keith YEUNG, SC, the Director of Public Prosecution denied that the preparatory work done by the Department of Justice was not thorough enough. "In some cases, due to various reasons, the Police will prosecute first and then send the testimonies and evidence to the prosecutors two or three, or several

of prosecution to threaten protesters", *Stand News*, 30 March 2015; "Statistics on Occupy related prosecutions (Part 2) Of 47 cases concluded, 45% dismissed or not guilty", *Stand News*, 2 April 2015

³¹⁷ LCQ5 : Arrest and prosecutions in relation to public order events, 13 May 2015

³¹⁸ LCQ3: Litigations to which the Government was a party, 16 November 2011.

³¹⁹ "DOJ engages independent senior counsels to handle the case of 7 policemen to alleviate public concerns", *Ming Pao*, 23 May 2015.

weeks later.” He explained that it is only after the testimonies and the evidence are sent to the Department of Justice that the prosecutors have a first chance to decide whether the prosecution should proceed in accordance with the Prosecution Code. The Department has a responsibility to ensure that prosecution is conducted only when there is a reasonable prospect of conviction. The fact that such practice is criticized as a lack of communication between the Police and the Department of Justice is unusual.³²⁰

Magistrate CHEUNG Kwan-ming, in trying Case KCC4251/14, openly expressed the worries of the court. He remarked that general assault cases were easy to prosecute but hard to defend. He denounced the police officers for giving untruthful testimonies, which brought the student before the court. The deeds and behaviour of the police officers were not commensurate with the conduct expected of law enforcers. The Magistrate suggested that the case be referred to the Complaints Against Police Office for follow up. He explicitly demanded that the court be notified of the results in writing.³²¹

In relation to cases involving alleged assaults on police officers, Civil Rights Observer pointed out that, with a view to protecting law enforcement officers, the court will consider such assault as a serious crime. If convicted, the defendant may be sentenced to imprisonment. The Department of Justice and the Police should therefore act prudently and equitably in handling such cases, and should not make unnecessary prosecution.

The following section comprises five parts: (1) excessive use of force by police; prosecutions and trials; (2) prosecution cases instituted by police. The latter includes (a) assault, assault on police officer and obstructing police duty; (b) criminal damage; (c) access to computer with dishonest intent; (d) arrest by appointment; abrupt arrest; and (d) others.

2.6.1 Excessive use of force by police; prosecutions and trials

A 4-minute footage of TVB shows TSANG Kin-chiu being lifted by police to a dark corner near Tamar Park during the clearance operation on 15 October 2014. He was punched and kicked by 7 policemen. The footage causes great public indignation. The 7 policemen are WONG Cho-shing (Chief Inspector of Police, the Organized Crime and Triad Bureau), members from District Anti Triad Squad, Kwun Tong Police Division, LAU Cheuk-ngai (Senior Inspector of Police), PAK Wing-bun (Police Sergeant), and LAU Hing-pui, WONG Wai-ho (Police Constables) as well as CHAN Siu-tan (Police Constable, Crime Kowloon East Headquarters) and KWAN Ka-ho (Police Constable, Kowloon City Division). TSANG Kin-chiu said that he made a report to the police a few days after release. On 22 October, TSANG Kin-chiu applied for a judicial review to the High Court demanding the Police to reveal the identity of the 7 policemen involved. At that time, the Case Officer admitted that there was sufficient evidence to arrest the policemen but due to other considerations, no arrest was made. (HCAL141/14)

On 20 January 2015, to assist the identification procedures, TSANG Kin-chiu was asked to go a police station to produce a DNA sample. In an identification parade in January, TSANG Kin-chiu identified 2 police officers. However, after being identified, someone was unwilling to stand up to allow TSANG to assess their height clearly. They also had their eyes closed. There were no actors in the parade and it was questionable whether the process complied with standard procedures.³²² TSANG decided not to attend any further identification parade arranged by the police afterwards. The Department of Justice has not prosecuted the 7 police officers until now. On 22 May, Rimsky YUEN, SC, Secretary for Justice said that in order to dispel public doubt, and in view of the sensitivity of the case, the Department of Justice would employ an independent senior council to

³²⁰ “Arrestee granted unconditional release, Rumsey Yuan asks police to further look into the attack on TVB reporter”, A02, *Apple Daily*, 2 May 2015.

³²¹ “Policemen giving untruthful testimony, Student found not guilty, Magistrate denounces the conduct of policemen, case to be referred to CAPC”, A04, *Apple Daily*, 3 April 2015.

³²² “Tsang Kin-chiu: Police say they have sufficient information to arrest the 7 cops”, A11, *Ming Pao*, 24 October 2014.

offer just and fair legal advice. He stressed that the Department of Justice would not consider political factors in making prosecution decisions.³²³

Osman, who was hit at the neck by Franklin CHU King-wai, Superintendent of Police using a police baton during the clearing operation in Mong Kok on 26 November, reported his case the following day. But it was not until January 2015 that arrangements were made to have his statements taken. On 20 March (i.e. 141 days after the incident), police replied that time was needed for investigation. Oscar believed that the delay on the part of the police was intentional.³²⁴

LEE Siu-lung, NowTV engineering personnel, instituted on 10 April a private criminal prosecution against the 4 police officers who allegedly assaulted him. LEE's lawyer pointed out that LEE had reported to the police for help after the assault, but the police had taken no action until now. Hence LEE had to resort to private prosecution to look into the legal responsibilities.³²⁵

TVB journalists were attacked when they were reporting an anti-Occupy rally. On 2 May, the police, using insufficient evidence as a reason, said they would not institute criminal prosecution. The key of the case was the identification parade. AM730 reported that the each suspect was put in a separate group in the identification process. Each group was composed of 1 suspect and 7 to 8 actors. Among the 3 groups, only 1 group had all the faces exposed. A suspect requested that everyone in his group wore a shower cap, using the reason that he had to protect the special feature on his head. This request was granted. Everyone in the last group was allowed to wear a mask plus a shower cap, based also on the reason of protecting special facial features of the suspect. The victim was required to identify the attacker among 8 to 9 "masked persons".³²⁶ LO Wai-chung explained that suspects had the right to request to wear a hat or to wear different clothing in the identification parade. Reasonable requests should be allowed or the suspects might use unfair identification procedure as a plea reason and the prosecution might lose a lawsuit.³²⁷

2.6.2 Prosecution cases instituted by police

Assault, assault on police officers and obstructing police duty

The defendant YUNG Wai-yip was a life guard. According to the charges, he pushed a man to the ground on 24 October and grabbed a man by his wrist on 3 November at the junction of Nathan Road and Argyle Street. He was released on bail of \$4,000 but barred from entering an area in Mong Kok marked by Dundas Street in the south, Shanghai Street in the west, Mong Kok Road in the north and Fa Yuen Street in the east.

A man who always dressed up as Captain America and held a shield was alleged to have assaulted two men twice during the occupation of Mong Kok. The two men were trying to cut the straps on blockades at the time of the alleged assault. On 18 December, the accused pleaded not guilty in the

³²³ "DOJ employs barrister for case of alleged beating by 7 cops", A19, *Hong Kong Economic Times*, 23 May 2015.

³²⁴ "No progress for 'dark corner' incident after 183 days, Tsang intends to sue the 7 cops", A10, *Apple Daily*, 16 April 2015.

³²⁵ "Li Siu-lung takes criminal proceedings against 4 cops", A12, *Sing Tao Daily*, 12 April 2015; "Li Siu-lung of now TV sues police for beating", A10, *Wen Wei Po*, 12 April 2015.

³²⁶ "Suspects for assault on TVB reporter ask for permission to wear masks and shower caps in police line-up", A02, *am730*, 4 May 2015.

³²⁷ "Request for wearing shower cap in line-up reasonable", A04, *Hong Kong Daily News*, 5 May 2015; "7 cops unwilling to co-operate, line-up procedures in question", A06, *Hong Kong Economic Journal*, 8 April 2015.

Kwun Tong Magistrates' Courts to two charges of common assault. A trial was scheduled for 30 January 2015. He said outside the court that he had tried to protect the participants of the Occupy Movement and did not regret his actions.

On 30 December, the defendant CHAU Chung-ki, aged 37 and claimed to be a construction worker, pleaded not guilty in the Kwun Tong Magistrates' Courts to assault on a police officer. According to the prosecution, the incident occurred when the police exercised crowd control outside Sun Cheong Building at 404 Reclamation Street on 5 October. The defendant, who was standing at the front of the crowd, swore at the police officers and suddenly kicked a sergeant surnamed WONG with his left foot. The sergeant tried to fend him off with the left arm and was confirmed after the incident to have sustained an arm fracture.³²⁸

On 29 September, CHAN Pak-shan, a protester, queried whether the engine of a police vehicle parked at Lung Wo Road, Admiralty, had been turned off. When asked by a sergeant to produce his identity card, he was alleged to have lost control of himself and punched the sergeant in the chest. CHAN was charged with assault on a police officer and failure to produce his identity card. He was acquitted after trial on 20 May and awarded \$500 as costs. According to the prosecution, CHAN punched the sergeant in the chest and said "I can even stab you with a knife". The sergeant then cried out "Somebody has a knife" and, together with two subordinates, pressed the defendant on a mesh fence and put him under control. However, they did not find any knife on searching him. The sergeant had a bruised chest. In his determination, Magistrate Winston LEUNG Wing-chung criticized the testimony of the police officers concerned, pointing out that both Senior Inspector of Police (SIP) YAN Hon-yeung and Sergeant WONG Lok had not told the truth. CHAN, when defending himself, said that on the day of the incident, he had mentioned to a few friends about the idling engine of a police vehicle. A police officer in white uniform suddenly stopped him and said, "So you insist? My colleagues taking a break is none of your business!" He also said, "Do you want a 'treat'?" CHAN was immediately surrounded by more than 20 policemen. Claiming that they had to search him, the policemen banged CHAN's head on an iron fence for several times. They then dragged him onto a police vehicle and continued to hit him in his nose, snap him and knee him. They also hit his head and genital area with hard objects including a water bottle. The beating lasted for more than 15 minutes. In the trial, the defence also pointed out that the bruise mark on the sergeant's chest was in the form of an angled line and doubted if it had been caused by punching as alleged. Magistrate LEUNG determined that there was a reasonable likelihood that CHAN had been beaten by police officers as the injuries he suffered were "more serious" than that of the police officer concerned. CHAN said outside the court that the police officers had given false testimony and he would pursue the case to see if it involved perverting the course of justice. In addition, the SIP testified that he had not been clear about the whole process of the incident. The Magistrate doubted if he should "know so little", given that he was the field commander and the police officers would not have taken action without his order. The Magistrate considered the SIP's claim an excuse to keep himself on the sidelines. (ESCC875/15)³²⁹

CHAN Chan-kwong was an occupant of a residential home for the elderly and was unemployed. He was charged with criminal damage for spray-painting the Chinese characters meaning "The Chief Executive broke the law but walked free. The people are denied the right to occupy Central" in black on the wall of Heung To Middle School at Kowloon Tong on 31 October 2014. The trial had been

³²⁸ "Four offenders of Occupy Movement face court charges", A05, *Hong Kong Commercial Daily*, 31 December 2014.

³²⁹ "Chan Pak-shan cleared of assault charges, the one 'making the assault' suffers more severe injuries, Magistrate: Suspected beating by police", A07, *Ming Pao*, 20 May 2015; "Two men of Occupy Movement face three charges of assaulting police", A13, *Oriental Daily*, 20 May 2015; "Prima facie case for young 'occupier' Chan Pak-shan's assault on police, City University associate degree holder bound over for throwing hard objects at police, Case of HKDSE student hitting a policeman in his face to be determined end-May", A14, *Wen Wei Po*, 12 May 2015; "Case of assaulting police at Admiralty, Chan Pak-shan claims beaten by 20 policemen", A08, *Apple Daily*, 12 May 2015.

scheduled for May 2015 at the Kwun Tong Magistrates' Courts but the prosecution decided to drop the charge. CHAN was bound over in the sum of \$1,000 for one year on his recognizance. He paid the school \$100 for cleansing the wall. (KTCC5323/14)³³⁰

SO Wing-kin, a clerk, and NG Ting-pong, a volunteer of the Occupy Movement, faced three charges of assault on police officers. Police Constable LEUNG Kwun-chak testified that on the morning of 1 December, after driving the protesters from Lung Wo Road to the area around Admiralty Centre, police officers started to leave the scene by batches. When LEUNG and Police Constable CHU Kan-ho walked past Admiralty Centre, somebody kept swearing at them and calling them "dark cops". LEUNG found that a protester was attempting to throw a traffic cone at CHU. He stopped the protester and intended to pin him on the ground. According to the prosecution, NG appeared at that time and tried to pull LEUNG away. He also sat on LEUNG and punched his head. After falling down, LEUNG was punched and kicked by a number of people and then lost conscience. He regained conscience when someone took his police warrant card but fainted again at the next moment. LEUNG found himself in hospital when he woke up. He was given sick leave for 14 days because of multiple injuries. Some police officers alleged that SO was related to the throwing of traffic cone and the beating of LEUNG. Police Inspector WONG Chor-yuen arrived at the scene in response to a call for reinforcement and asked SO not to leave. SO ignored WONG's order and pushed WONG away, causing an injury to his left face.

The defence said that NG appeared to be supporting the body of LEUNG as seen in the TV news footage, and that NG had physical contact with LEUNG only because NG had lost his own balance. LEUNG claimed that it was NG who had pushed him to the ground. LEUNG also denied that he had said to the protesters "We'll take you to the police station and rape you". Neither had he heard his colleagues say so. (ESCC302/15)³³¹

TANG Tak-chuen was charged with intentionally obstructing police officers in executing duty. The incident occurred at Nathan Road, Mong Kok on 17 October. Police Constable WEI Ching testified that she had been deployed for cordoning off the south-bound lane of Nathan Road to prevent protesters from occupying that section of the road again. She was holding a baton as a precaution. The defendant suddenly approached her, snatched her baton, turned around and ran. He fell after running for about 6 metres. Five police officers came forward and put him under control, taking back the baton. The defence said that after being brought to the Mong Kok Police Station, the defendant felt dizzy and was sent to the Kwong Wah Hospital for examination. He was found to have tenderness and red patches on the crown of his head and both wrists. The defence claimed that such injuries had been caused by the police. According to the defence, WEI was dissatisfied that the defendant walked "too slowly" and beat his head with the baton. The baton fell to the ground because she beat too hard. WEI then falsely accused the defendant of snatching the baton. WEI emphasized that the baton had been snatched by the defendant and that he had kept struggling after falling down, taking the police officers almost a minute to get the baton back. (KTCC1182/15)³³²

CHEUNG Tak-chuen, a programmer, faced two charges of assault on police officers. According to the prosecution, on 17 October at Nathan Road near the junction with Soy Street, CHEUNG pushed a police constable (with surname CHAN) at the shoulder. He was arrested and taken onto a police vehicle, where he was alleged to assault another police constable with surname LAI. It was revealed in the court that the police had taken photos after arresting the defendant, but the photos were

³³⁰ "Man bound over for spray-painting wall of school", A14, *Apple Daily*, 23 May 2015.

³³¹ "Two protesters charged with assault on police", A07, *Apple Daily*, 20 May 2015; "Two men of Occupy Movement face three charges of assaulting police", A13, *Oriental Daily*, 20 May 2015.

³³² "Transport worker denies snatching baton of woman police officer", A15, *Sing Tao Daily*, 19 May 2015.

destroyed upon the defendant's refusal to be bailed. Magistrate Kenneth CHAN Ping-chau responded, "How could this be possible?" The defence continued that the notification letter had come from the Police. The prosecution replied that the photos "had not been destroyed, but deleted". Magistrate CHAN said that some departments or experts of the Police should be able to recover the photos, and pointed out that the photos were critical to the charges. He also asked, "Why destroying the photos? What are the reasons?" The defence had requested for a photo related to this case but the prosecution did not provide it. The trial was adjourned. (KTCC1349/15)³³³

LAU Tsz-kiu, a dim sum chef, was charged with assault on a police officer. It was alleged that he had pushed a male police officer at the chest with both hands on 28 September before the release of tear gas by the police. The Magistrate pointed out that the injuries suffered by LAI Hoi-tat, the police constable alleged to be assaulted, did not match the case details given by the prosecution. LAI described that the defendant had assaulted him by pushing hard on him with both hands and using both palms to hit on his chest. The medical report of LAI revealed that there was swelling and tenderness at the lower part of his chest bone. The doctor indicated in the report that the injuries had been caused by punching, which was different from what LAI had said. There were discrepancies in the testimony of the two police officers who were witnesses of the case, i.e. the police officer assaulted and a sergeant. Given the doubtful nature of the case, it was determined that the defendant had not met LAI and was cleared of the charge. The Magistrate considered the testimony of the police officers concerned doubtful and acquitted the defendant of the charge with an award of \$500 as costs. (ESCC691)³³⁴

On 26 November 2014, during the Occupy Mong Kok protest, renovation foreman KO Wai-chi tried to rush out to the carriageway outside Wai Fung Centre, Mong Kok, and bit a police constable in the arm in the course of arrest. He was then arrested and charged with the offences of obstructing a police officer in the execution of his duty and assaulting a police officer. There were major discrepancies in the evidence regarding the course of assault given by the injured detective police constable HUNG Kim-wai and the arresting officer WONG Chun-wai. According to HUNG, at the material time, KO was standing and when WONG put his hand on KO's shoulder, he himself was suddenly bit by KO. However, according to WONG, when KO was being arrested, he struggled and fell forward, his teeth "touching" HUNG's arm once. As HUNG changed his evidence in cross-examination and said that the injury might be caused by scratches when he tried to subdue the defendant, Magistrate CHEUNG considered him to be an unreliable witness and did not rule out the possibility that the incident was only an accident. The defendant was found not guilty of assaulting a police officer. Magistrate Eric CHEUNG Kwan-ming rebuked KO for charging to the carriageway when he must have heard police officers asking him not to do so. It was beyond doubt that he had done so recklessly with the clear knowledge that this would make it more difficult for police officers to carry out their duties. Therefore, KO was found guilty of obstructing a police officer and was sentenced to 80 hours' community service based on expert recommendation. (KCCC4243/14)³³⁵

³³³ "Computer programmer accused of assaulting police officers during Occupy Mong Kok protest, Magistrate questions deletion of important photograph by police", *Ming Pao*, 15 May 2015. "Magistrate condemns deletion of defendant's photograph by police in assaulting police case, denouncing it as "impossible"", A04, *Apple Daily*, 15 May 2015,

³³⁴ "Young man acquitted of assaulting police during Occupy Movement", A08, *Sing Pao Daily News*, 14 May 2015. "Inciting people to charge to carriageway during "shopping tour" protest, foreman convicted of obstructing police, Ignoring two police warnings and obstructing police in law enforcement, foreman pending sentencing on 27 May", A09, *Wen Wei Po*, 14 May 2015.

³³⁵ "Young man acquitted of assaulting police during Occupy Movement", A08, *Sing Pao Daily News*, 14 May 2015; "Inciting people to charge to carriageway during "shopping tour" protest, foreman convicted of obstructing police, Ignoring two police warnings and obstructing police in law enforcement, foreman pending sentencing on 27 May", A09, *Wen Wei Po*, 14 May 2015. "Cleansing worker sentenced to 14 days of imprisonment for possession of a knife

Taxi driver YEUNG Tak-wah, alleged to be sitting on the central divider of the northbound carriageway of Tim Mei Avenue in front of the Central Government Offices and refusing to leave, was charged with obstructing the police in the execution of duty. In the cross-examination by the prosecuting officer, YEUNG claimed that he was not aware that the court had made an injunction order. He said all along he had only been sitting on the central divider without putting up any resistance and therefore had not caused any obstruction to police actions. Police sergeant KWONG Wai-shing admitted in his evidence that apart from sitting on the central divider, the defendant had not done anything to obstruct the clearance actions. However, as the defendant was wearing a helmet and goggles, “dressing just like many mobs”, for the sake of the safety of the defendant and his fellow colleagues, KWONG reasonably suspected the defendant would take adverse actions against the police. YEUNG was convicted of obstructing police duty on 28 May 2015. The Magistrate said that as the defendant clearly knew his behaviour had obstructed the police’s clearance operation and he even asked the police to arrest him by saying “arrest me”, he was found guilty of the offence. The defendant said in mitigation that he accepted the verdict but did not regret his action, stressing that “he would not shrink back; otherwise he would never forgive himself”. The defendant was released on bail until 10 June pending background report and suitability report for community service order. (ESCC904/15)³³⁶

Vehicle attendant LEUNG Chi-hang was prosecuted for behaving in a disorderly manner in a public place because he had allegedly thrown a mills barrier at two police constables at Nathan Road, Mong Kok, threatening to “beat the police officers to death” and inciting the protesters to shout. There were discrepancies in the evidence of the police constable arresting the vehicle attendant, because he accused the defendant of “pushing the mills barrier” in his written statement at first but later changed it to “throwing the mills barrier”. Having watched the demonstration of action by the police constable, Magistrate Anthony YUEN Wai-ming considered it appropriate to describe the action as either “pushing” or “throwing”, without much difference in the meaning of the two words, and therefore considered that there were no discrepancies in the evidence. He was of the view that the protester was a tall and heavily built man in a bright yellow football jersey and the police officer had identified him correctly. As such, the Magistrate ruled that the defendant was guilty of behaving in a disorderly manner in a public place and allowed the defendant to be released on bail. (KTCC 1319/15)³³⁷

CHEUK Chung-hang, a first year student of an associate degree programme at the City University of Hong Kong, was prosecuted for throwing a palm-sized shining hard object at frontline police officers at Shantung Street by the junction with Nathan Road in the small hours on 26 November, causing police constable FUNG Chi-hang pain in the left forehead. It is understood that the police had tried in vain to locate the exhibit involved. On 11 May, the prosecution changed its approach and CHEUK was subsequently bound over for 12 months at \$2,000. (KTCC 1508/15)³³⁸

KWOK Wing-sang, a private candidate of this year’s Hong Kong Diploma of Secondary Education Examination (HKDSE), was standing on the right-hand side of two arguing protesters when he swung his fist and hit police constable HON Tak-ching on his right cheek and ear, making HON’s goggles nearly fall down. However, the police constable was not hurt in the incident. On 11 May, the defendant

during the Occupy Movement”, A06, 9 April 2015.

³³⁶ “Young man convicted of throwing mills barrier at two police officers at Occupy Mong Kok site”, A14, *Hong Kong Commercial Daily*, 13 May 2015; “Occupy Admiralty protester charged with obstructing police emphasizes no resistance during arrest”, A08, *Ming Pao*, 27 March 2015.

³³⁷ “Young man convicted of throwing mills barrier at two police officers at Occupy Mong Kok site”, A14, *Hong Kong Commercial Daily*, 13 May 2015.

³³⁸ “Associate degree programme student bound over for throwing hard object at police”, A22, *Hong Kong Economic Times*, 12 May 2015.

appeared in court and said that the police constable alleged to have been assaulted had changed his evidence after watching two video clips on the internet which showed the course of events. In his own defence, KWOK said that in the evening of the day concerned, on his way to Langham Place, Mong Kok after private tutorial, intending to buy a cinema ticket, he saw protesters arguing. He therefore tapped the police constable alleged to have been assaulted on his left shoulder with his right hand, indicating to him that the man in red and white upper garment was the one who attacked. However, the police constable pushed him to the ground with both hands and arrested him, saying loudly that he had “assaulted a police officer”. According to a report by *Ming Pao* Instant News, police constable HON Tak-ching, who had been allegedly assaulted, appeared to be avoiding reporters when he left the court. When he saw reporters taking photographs of him, he swore at them and turned to go. When handing down sentence on 27 May, Deputy Magistrate Edward WONG Ching-yu said that the statement of the police constable being assaulted was credible and believed that the defendant obviously had the intention of attacking the police constable when he swung his fist after approaching him. Considering the fact that this was the young defendant’s first offence of the type and that this was not a serious crime, with the victim unhurt, the court decided to impose a lenient sentence of a fine of \$4,000, which included the compensation of \$2,000 for the victim whose glasses had fallen down and broken as a result of the assault.³³⁹

CHEUNG Ka-hin, a member of Civic Passion, was charged with criminal damage for allegedly trying to charge into the Legislative Council building in the early hours of 19 November, damaging articles including glass doors and glass walls. The case was heard at the court again in May. After seeking legal advice, the prosecution filed an application for dismissal of the charge due to insufficient evidence. The application was granted by the Magistrate. (ESCC3985/14)³⁴⁰

In the same case, four other men, namely CHEUNG Yeung, TAI Chi-shing, CHEUNG Chi-pong and SHEK Ka-fai, were charged with criminal damage for allegedly damaging articles including seven glass walls, nine glass doors, a stone door and 25 channel covers of the Legislative Council building at the same place on the same day. On 12 May, they were charged with an additional offence of taking part in an unlawful assembly with others at the above location, conducting themselves in a disorderly, intimidating, insulting or provocative manner with the intention of committing a breach of the peace. The four pleaded not guilty and were each bailed out at \$1,000. (ESCC4000/14)³⁴¹

Billy CHIU Hin-chung was accused of charging a police line and kicking a senior police officer when the police were trying to clear a road blockade on 17 October. He was subsequently charged with three offences, namely obstructing, resisting and assaulting police. Magistrate TSUI Ying-lan pointed out that CHIU was not an honest witness. Although the police constables being called witnesses by the prosecution had given different accounts of the course of events around the time when CHIU Hin-chung was arrested, she was satisfied that as the police constables were watching the incident from different locations, it was reasonable to have discrepancies in their evidence. There were unreasonable and unreliable elements in CHIU Hin-chung’s own account of events. Chiu clearly knew that the police were trying to clear the occupied area but he kept charging the police line with his

³³⁹ “Prima-facie case against young protester of Occupy Movement CHAN Pak-shan, Student of CityU associate degree programme bound over for throwing hard object at police, HKDSE candidate pending sentencing in late May for hitting police officer in the face”, A14, *Wen Wei Po*, 12 May 2015. “Occupy Mong Kok student protester accused of assaulting police officer, Victim changes evidence after watching internet video clips and swears at reporters when leaving the court”, *Stand News*, 11 May 2015.

³⁴⁰ “Student of associate degree programme bound over for throwing hard object at police”, A22, *Hong Kong Economic Times*, 12 May 2015.

³⁴¹ “Student of associate degree programme bound over for throwing hard object at police”, A22, *Hong Kong Economic Times*, 12 May 2015.

hands and body, forcing the police to retreat. He then continued to charge at the police officers until they fell down. He had done so to obstruct the work of the police. However, the Magistrate considered that as it was crowded at the scene, she could not rule out the possibility that CHIU had only kicked the police constable by accident. Therefore, CHIU was acquitted of assaulting police. (KTCC582/15)³⁴²

YUNG Kin-wing, a bridegroom-to-be, was charged with the offence of obstructing the police on duty by crossing the road slowly during “gau wu” (shopping) protest in Mong Kok on 1 December. YUNG said that after buying wedding rings with his girlfriend on 1 December, he walked from a restaurant to Langham Place for public transport. He was pushed and arrested by the police on the carriageway outside the restaurant. YUNG said that the prosecution alleged that he had been warned by the police and that he had stood in the middle of the road for ten seconds but a video clip available showed that there had not been such a warning or such misconduct. YUNG questioned whether the police had provided its officers with professional training, asking “why the statement was written in such a way that it was totally inconsistent with the facts”. The prosecution eventually decided to dispose of the case by way of offering no evidence and YUNG was entitled to an award of costs of \$500. (KCCC1164/15)³⁴³

LEE Chin-hung, a catering captain, was charged for allegedly punching a police constable four times on his chest during a “gau wu” (shopping) protest in Mong Kok on 1 December. According to a video clip provided by the defence, LEE had not punched the police constable. It only showed LEE on the ground with a number of police constables in fluorescent vests surrounding him and how he was subsequently arrested. The prosecution eventually decided to dispose of the case by way of offering no evidence and LEE was entitled to an award of costs of \$500. (KCCC1164/15)³⁴⁴

LEE Chun-kuen, an unemployed alleged to be “swinging his arms and feet” in front of a police line during the Occupy Mong Kok protest on 17 October, was charged with the offence of obstructing police duty. The case was originally scheduled for hearing on 6 May. However, the defence reported that the defendant had died after falling from height on 4 May. The prosecution requested more time to ascertain his identity and the Department of Justice also needed time to consider whether to drop the charge or not. (KTCC1462/15)³⁴⁵

Drawing instructor TSE Shing-yu was alleged to have kicked MA Hing-wai, a uniformed police officer, in the right leg when the police drove pro-Occupy demonstrators from the roadway to the pavement in Mong Kok. When testifying in court, MA displayed the injured spot, which was different from the spot shown in the photographs presented as evidence in court. He also failed to answer a series of questions of the magistrate. Magistrate Kenneth CHAN ping-chau described the spot shown by MA as the middle of the right shank towards the outer edge, which MA agreed. After examining the photographs presented, the magistrate discovered that the injured spot was the right calf towards the inner edge instead of the outer edge. MA corrected himself and said that it should be the middle of the shank. When asked repeatedly by magistrate CHAN for reasons for not correcting himself in the first instance, MA first replied that he had not expressed himself properly and then added “I have not

³⁴² “Billy CHIU Hin-chung remanded in custody for obstructing police officers from removing barricades and resisting arrest during the Occupy movement”, A05, *Sing Pao*, 9 May 2015.

³⁴³ “Charges against two men dropped after video footage obtained through online appeal proved their innocence”, A27, *Hong Kong Economic Times*, 7 May 2015.

³⁴⁴ “Charges against two men dropped after video footage obtained through online appeal proved their innocence”, A27, *Hong Kong Economic Times*, 7 May 2015.

³⁴⁵ “Charges against two men dropped after video footage obtained through online appeal proved their innocence”, A27, *Hong Kong Economic Times*, 7 May 2015.

pointed well". He was silent for a few moments before going on to explain that "I thought it was right in the middle so I didn't specify whether it was towards the outer or inner edge". The magistrate acquitted the defendant on grounds that the case could not be proved beyond reasonable doubt. (KTCC1460/15)³⁴⁶

Sound technician WAN Wang-kuen was charged with assaulting a police officer on 12 October. It was alleged that he had kicked the police sergeant in the left leg, leaving the left calf red and swollen with abrasions. The magistrate acquitted the defendant because the prosecution could not establish the intent of the assault. According to the prosecution, the police sergeant was assisting plainclothes officers in checking the identity cards of protesters when the defendant suddenly shouted at him: "Sir, you have jostled me!" Ignoring him, the police sergeant was kicked once in the left shank by the defendant about one minute later. Immediately, the police sergeant shouted: "Assault on police officer!" Several police officers behind him rushed forward at once and subdued the defendant. The video footage broadcast in court by the prosecution showed the defendant standing in front of WONG at that time. After the defendant had made a jumping movement, both of them looked down simultaneously. That was believed to be the time when the defendant had kicked the police sergeant. WAN said in his justification that, after being jostled, he had shouted at WONG and demanded an apology from him, which WONG ignored. He made a little jump moments later because some protesters behind him had pulled him by the shoulder. He stressed that he did not kick WONG on purpose. In handing down the verdict, the magistrate said he accepted the prosecution's point that both parties had looked down because WONG was kicked in the leg. Yet, it could not rule out that the kicking might arise from a sudden loss of balance on the part of the defendant when he was pulled from behind by other protesters. On the grounds that the benefit of doubt should go to the defendant, the magistrate ruled that the defendant was not guilty. The police sergeant WONG Lok-on was picked up by a private vehicle upon leaving the court. A man in suit attempted to block reporters from taking photographs and ignored their requests to identify himself.³⁴⁷

WAN Wai-tai, participant of a "gau wu" (shopping) protest, was charged for injuring police superintendent AU Wing-leung in the face by throwing a water bottle filled with water at him outside the MacPherson Playground in Mong Kok on 29 November. The defendant pleaded not guilty and stood trial. Magistrate LAM Tsz-kan heard from the prosecution that the police superintendent concerned and his colleagues were surrounded by several protesters who hurled water bottles and wood boards at them. A plainclothes officer who had witnessed the defendant's act in the crowd followed and arrested him with the assistance of another police officer. The magistrate agreed that the prosecution witness who testified in court was honest and reliable. The defendant was convicted and sentenced to two weeks in prison but was released on a bail of \$500 in cash pending appeal.³⁴⁸

LO Kin-man, member of the political group Orchid Gardening, was charged with two counts of obstructing police duty. It was alleged that he had wilfully obstructed police officers LAU Ming-lun and WU Man-hon from performing their duties at the junction of Nathan Road and Argyle Street in Mong Kok on 5 November by turning a flashlight on them. The court heard from the prosecution that the defendant had blurred the vision of the police officers and caused other protesters to follow suit, which made it even harder for the police officers to perform their duties. The victims testified that police officers were sandwiched between pro-Occupy protesters and anti-Occupy protesters, facing

³⁴⁶ "Man occupier of Mong Kok acquitted of assaulting a police officer due to inconsistency between police testimony and photographic evidence", A13, *Apple Daily*, 6 May 2015.

³⁴⁷ "Technician acquitted of kicking and injuring a police sergeant", A05, *Hong Kong Daily News*, 28 April 2015; "Man acquitted of assaulting a police officer during Mong Kok occupation", *Sing Tao Daily*, 27 April 2015.

³⁴⁸ "Man participating in gau wu protest jailed for two weeks for hurling a water bottle at a police superintendent", A17, *Hong Kong Commercial Daily*, 25 April 2015.

pro-Occupy ones. The defendant's acts blurred their vision and affected their law enforcement operation. The defence said that when the defendant had shone the flashlight on the two victims, another police officer approached him and advised him against it. That's when the defendant's emotion ran high and shouted at him: "What a xx big-head! I wanna turn the flashlight on. What are you going to do about it?" It could not be so concluded that the defendant had prior intention to shine the flashlight in the face of the police officers. Deputy magistrate LAM Tsz-kan criticized that the defendant's actions were unnecessary, uncivilized and provocative and had indeed caused inconvenience to police officers on duty. Yet, the impact should be short-lived given that it was just an average smartphone flashlight, it was turned on for a short while and there was a relatively big distance between the defendant and the police officers affected in one such occasion. Furthermore, as both police officers and protesters were not in action at the time, the work of the police officers would not have been obstructed. Hence, the defendant was not convicted. (KCCC4134/14)³⁴⁹

Julie LI of the League of Social Democrats, LEUNG Yuet-ching, LAU Tsz-on, British national Paul CHRISTENSEN and YIP Man-kit were charged on 15 April 2015 for obstructing police officers in the execution of their duties at Tamar Park and Lung Wo Road during the Occupy movement on 15 October 2014. PANG kai-tsun, a student aged 18, was charged with assaulting police officer CHUNG Chun-pang on the westbound side of Lung Wo Road on the same day. The defendant pleaded not guilty. Apart from YIP who was hospitalized and could not appear in court, the other five defendants who appeared for trial pleaded not guilty. Each of these cases was adjourned pending preparatory hearings. (ESCC 1187-92/15)³⁵⁰

It was alleged that TAI Ki, a student aged 18, had shoved a police officer in the chest at Argyle Street when participating in the mobile occupation, known as "gau wu" (shopping) protest, in Mong Kok on 28 November. The case was heard before the Eastern Magistrates' Court. On delivering the verdict, the magistrate pointed out that the video clip showed the defendant holding a bag in his right hand at the time. It could not be proved that he had actually shoved the male police officer with his right hand. Hence, the defendant was acquitted. However, the defendant was criticized for bringing suspicion upon himself and his application for costs was rejected as a result. (KCCC 4250/14)³⁵¹

Student LAW Wai-pong, aged 19, was charged and convicted of one count of assaulting station sergeant CHAN Yiu-lun with a tent and his foot during the clearance of Mong Kok on 25 November. Magistrate CHU Chung-keung said the testimony of the witness, station sergeant CHAN Yiu-lun, was clear. Although CHAN had stepped on LAW's tent at the time, it posed no threat to his safety or property. Therefore, LAW's attack on CHAN could not be deemed as self-defence. The magistrate added that although the injuries suffered by the station sergeant were minor and the alleged injuries were different from those of the medical report, such deviation should not affect the reliability and accuracy of the testimony of the witness who was honest and reliable. The magistrate was fully convinced that the assault had occurred. Hence, the defendant was convicted of assaulting the police officer.³⁵²

³⁴⁹ "Orchid Gardening member acquitted of obstructing the police, Magistrate found shinning flashlight on police officers provocative", A04, *Sing Pao*, 18 April 2015; "Waiter acquitted on two charges of shinning flashlight on two police officers", A06 *Hong Kong Daily News*, 18 April 2015; "Male occupier of Mong Kok acquitted of turning smartphone flashlight on police officers, Magistrate slams such act as highly provocative yet fell short of obstructing the police", A14, *Ming Pao*, 18 April 2015.

³⁵⁰ "A group of six man and women occupiers charged with obstructing and assaulting police officers", A23, *Oriental Daily*, 16 April 2015; "Julie Li of League of Social Democrats pleaded not guilty to charges of obstructing police officers during the Occupy movement", A11, *Wen Wei Po*, 16 April 2015.

³⁵¹ "A group of six man and women occupiers charged with obstructing and assaulting police officers", A23, *Oriental Daily*, 16 April 2015.

³⁵² "Student aged 19 placed on probation for kicking a police officer during clearance of Mong Kok", A08, *Wen Wei Po*,

Shop assistant CHONG Po-sheung was charged with punching a police officer in the waist twice near an exit of Mong Kok MTR station during the Occupy movement on 4 October. Delivering the verdict on 10 April, the magistrate agreed that the police officer had indeed been hit but the station sergeant, the sole eye-witness of the case, might have mistaken the defendant for the crime scene was very crowded and people were scuffling at the time. Since the case took place in a split second, it was not unusual for the three people involved to have diverse accounts of what had happened. The station sergeant's testimony was different from the other two witnesses'. Hence, the defendant was acquitted and granted the costs.³⁵³

HO Pak-hei was charged with assaulting uniformed police officer LAU Kam-wing in Mong Kok on 28 November. The police officer was performing crowd control duties in Mong Kok around 11 pm on the day when he was suddenly struck in the mouth by the defendant. The corner of his mouth bled. Immediately, he reached out his hands to grab the defendant but his hands were brushed off. He lost his balance and fell to the ground. After he had picked himself up, he arrested the defendant. His medical report stated that the corner of his mouth was red and swollen with scratches. His left elbow was also injured. The defence played in court a video footage capturing what had happened at the time of the incident. It showed that when the defendant had walked past LAU from behind, LAU immediately turned around and grabbed him and then fell to the ground. After watching the video clip, magistrate CHEUNG Kwan-ming said he could not see the defendant attacking the police officer and asked if the prosecution could see that. Both the prosecution and LAU admitted that they did not see the assault. LAU insisted that it was because the camera was blocked at the time. The defence said the defendant had jostled LAU's back by accident. LAU disagreed. The defence pointed out that LAU had given statements about this case for three times and claimed to be assaulted from the front every time, which was different from the video clip. LAU denied telling lies and merely said that his original account of the incident was incorrect. He went on to correct himself and said that the defendant had assaulted him from behind. He maintained that it did not matter whether the defendant had assaulted him from the front or from behind. "I am not a video-recorder and cannot recall the details," he said. When asked by the prosecution about the distance between him and the defendant, LAU said the defendant was about one to two metres behind him. Upon hearing this, the magistrate teased: "we just have two eyes, how can we see things behind us?" The prosecution withdrew the question. After a two-day trial, HO was found not guilty of assaulting the police officer and was awarded the costs of \$500. (KCCC4251/14)³⁵⁴

Transportation worker WONG Hiu-sing, aged 25, was prosecuted for assaulting and resisting police officer Shum Chun-yin at the junction of Nathan Road and Argyle Street during Occupy Mong Kok on 17 October. WONG pleaded not guilty to two charges at the Kwun Tong Magistrates' Courts. The prosecution pointed out that the defendant had not engaged a private lawyer and only came to court with the duty lawyer. The magistrate then allowed the defendant four weeks to hire a private lawyer and the case was adjourned until further arraignment on 23 April.³⁵⁵

11 April 2015.

³⁵³ "19-year-old student put on probation for kicking police during clearance of Mong Kok", A08, *Wen Wei Po*, 11 April 2015.

³⁵⁴ "Video shown in court suggested student not assaulting police, Police argue camera was blocked", A16, *Apple Daily*, 27 March 2015; "False police evidence frees male student from charge of assaulting police, Judge condemns misconduct and urges referral to complaint unit", A04, *Apple Daily*, 3 April 2015.

³⁵⁵ "Prima facie evidence on assaulting police established against 'shopper' in Occupy Mong Kok", A10, *Wen Wei Po*, 27 March 2015.

Male reporter of Next Magazine YAU Hon-bong was above Lung Wo Road tunnel off Tamar Park when the police cleared the area during the Occupy Movement on 1 December. He was suspected of hurling a helmet against a policeman and pushing him on the chest, and was subsequently charged with a count of assaulting the police, that is, assaulting Detective Police Constable AU Chi-man who was on duty then. According to Police Constable KO Chi-chung who arrested the defendant, at seven o'clock that morning, the defendant was seen wearing a red jacket on the spot but was found not following the instruction to leave. On the contrary, he was seen making his way towards Lung Wo Road. KO therefore moved forward to subdue and handcuff him. At this juncture, AU Chi-man came over and claimed that he had been hit at the head by the helmet flung by the defendant. The defence said during interrogation that KO had hit the defendant with his police baton. This was denied by KO, who only admitted having pulled out his baton. When KO searched the body of the defendant, a reporter's identity card issued by the Next Media was found. (ESCC 4132/14)³⁵⁶

SZE Kwok-hung darted onto the road during "gau wu" (shopping) and was prosecuted for obstructing the police in the execution of duty. He pleaded not guilty during trial on 13 March. According to police officer LEE Chi-hung, SZE disregarded the police advice to leave and stayed on the road yelling "I demand true universal suffrage! I am occupying this place!" on the night of 1 December. LEE at once caught the defendant's left shoulder with his right hand and arrested the defendant. The defence cast doubt on LEE's evidence as it was not mentioned in his statement that the defendant had chanted slogans. Also, his statement recorded that the defendant was stopped with both hands, which was different from what was heard in the court. The arresting officer was queried by the defence when giving evidence in the court as to why so many details were omitted in his statement, for example, why it was not indicated in his statement that the defendant had been advised to leave and had shouted the slogan "I demand true universal suffrage! I am occupying this place!" The police officer denied having made it up and ascribed the omission to mere carelessness. The magistrate eventually passed the judgment that SZE was not guilty on the ground that part of the key details given by the police officer was doubtful. (KCCC4289/14)³⁵⁷

Student AU YEUNG Chin-hung was alleged to have hit the chest of a police officer with his elbow during the confrontation with the police force outside the LegCo Complex on 19 November. He was subsequently prosecuted for assaulting the police. When the case was brought up in the Eastern Magistrates' Courts on 24 February, the prosecution agreed to withdraw its charge and close the case with a bind-over on condition that the student made an open apology in the court. The suggestion was queried by the magistrate as the court was not empowered to order a defendant to apologize openly. It was eventually ordered that the student may be bound over in the sum of \$2,000 and should display good behavior for a period of 18 months. In the court, AU YEUNG said, "I deeply apologize for all the inconveniences caused to the court." (ESCC3984/14)³⁵⁸

Scaffolder CHOY Ho-man went to Mong Kok to support occupiers after work. He was alleged to have forced his way through the police cordon line by pushing against shield-holding police officers. He struggled vigorously when being brought under control by the police and was eventually prosecuted for resisting police officers. CHOY defended himself when the case was brought to court for trial. The magistrate considered the evidence given by two police officers contradictory and ordered that the scaffolder should be acquitted and released. According to the evidence given by Police Constable LEE Ka-ho, over one hundred police officers were in opposition with more than two hundred protesters off Wai Fung Plaza, Mong Kok in the small hours of 19 October. The mills barriers set up by the police

³⁵⁶ "Next Magazine reporter on trial for hurling helmet against police", A12, *The Sun*, 25 March 2015.

³⁵⁷ "Mong Kok 'shopper' acquitted of obstructing police duty", A18, *Apple Daily*, 13 March 2015.

³⁵⁸ "Bind-over for two male law-breakers in Occupy Movement", A04, *Sing Pao*, 25 February 2015; "Student occupier bound over for assaulting police, Judge queries prosecution's demand for apology", A06, *Ming Pao*, 25 February 2015.

were broken loose and LEE saw the defendant approach from a distance of “five metres, two metres and zero metre”, make a right-angled turn and hit the shield LEE was carrying with his shoulder. After warning the defendant but to no avail, LEE moved forward with other police officers to subdue him. Another Police Constable TANG Siu-sum stated in his evidence that it was him that tied the defendant’s hands with plastic straps and that other police officers only came forward to render assistance afterwards. Judging from this, the Magistrate YUEN Wai-ming considered the case details doubtful and the defendant was acquitted. (KTCC1607/15)³⁵⁹

Student YEUNG Ho-yin from the School of Architecture of the Chinese University of Hong Kong was alleged to have twice assaulted Police Constable CHEUNG Koon-man and maliciously caused serious injury to Police Constable CHAN Man-chun during the action to besiege the Central Government Offices on 30 November. It was said that YEUNG intended to reach the Central Government Offices via Lung Wo Road with other protesters but they were dispersed by the police. The police asked some of the women protesters to “go back up there”. The defendant was displeased and accused the police of flirting with girls. The police officers later claimed that the defendant had assaulted them by slapping them in the face, kicking them and causing injury to their fingers. The defendant denied all allegations. The magistrate deferred the case to 26 June for pretrial and allowed the defendant to be put on bail in the sum of \$1,000 for the time being.³⁶⁰

Cook LEUNG Chun-ngai was prosecuted for hurling a mills barrier against the police with two unidentified men in Nathan Road, Mong Kok on 17 October 2014 and assaulting the police with a key and his elbow when being arrested. He was charged with unlawful assembly and assaulting the police. The defendant denied the allegations and stressed that he did not hurl any mills barrier against the police or assault the police that day. The prosecution summoned the assaulted Police Constable LAM Kwok-chi to give evidence. LAM said that day, he saw three persons jump over the road fence, pick up a mills barrier and hurl it against a helmeted police officer together. LAM therefore went forward to arrest the defendant. The defendant resisted, and hit Lam’s right arm with his fist, which had a key between fingers, and LAM’s left chest with his elbow. The prosecution admitted that the uniformed police officer hit by the mills barrier could not be located and summoned the sergeant who had witnessed the hurling of mills barrier to give evidence in the court. The defence said that the defendant had not hit any body part of the uniformed police officer with a mills barrier and believed that LAM had been lying. But LAM did not agree. The defence also pointed out that LAM had not indicated in his note book or statement form that he had been hit by LEUNG’s elbow. It was exaggerating for him to unexpectedly mention having been hit by elbow in the court the day before. LAM denied having exaggerated and explained that it was only left out by mistake. The defence emphasized that the defendant had never used his elbow to hurt LAM, nor had he assaulted Lam or any other police officers. (KTCC799/15)³⁶¹

Criminal Damage

Autistic repairman AU Yat-kit was charged with criminal damage for making a circle measuring three metres times three metres with red spray paint in the section of Hennessy Road off Hysan Place, Causeway Bay during the Occupy Movement in October. He denied the allegation in the Eastern Magistrates’ Courts on 1 May and pretrial was scheduled for 2 June.³⁶²

³⁵⁹ “Contradictory police evidence frees scaffolder of Occupy Mong Kok from charge”, A07, *Apple Daily*, 12 June 2015.

³⁶⁰ “Chinese University student on trial next month for twice assaulting police in Occupy Admiralty”, A08, *Wen Wei Po*, 30 May 2015; “Mong Kok occupier suspected of hurling mills barrier against police, Prosecution admitted not being able to locate subject”, *Ming Pao*, 27 May 2015.

³⁶¹ “Self-study Mong Kok occupier fined \$4,000 for assaulting police”, A21, *Wen Wei Po*, 27 May 2015.

³⁶² “Autistic male suspected of making road graffiti on bail”, A12, *Apple Daily*, 1 May 2015.

Casual renovation worker CHEUNG Hon-wai was suspected of denting a police car with his leg at the junction of Nathan Road and Shantung Street, Mong Kok during the Occupy Movement on 17 October. This was witnessed by a citizen and he was subsequently arrested by the police. When under caution, he expressed that he had no idea why his kick would reach the police car. The defendant pleaded not guilty to criminal damage and was allowed to be put on bail in the sum of \$5,000 until trial on 29 May.³⁶³

American photojournalist Paula BRONSTEIN was charged with criminal damages for standing on the bonnet of a private car while covering the Occupy protests in Mong Kok. She was brought up for mention before the Kwun Tong Magistracy on 5 December and was bound over on her own recognizance for 2 years in a sum of \$2,000. While covering the Occupy Movement around Sai Yeung Choi Street and Argyle Street in Mong Kok on 17 October, she stood on the bonnet of the private car, causing a 6-inch scratch mark and lots of footprints on the body of the car. The owner of the car filed a complaint to the police. The magistrate emphasized that although the defendant had the right to report news to the world, she could not damage private property. BRONSTEIN who had been in and out of many war zones said this was the first time she was arrested and was dumbfounded by it. She said she stood on the bonnet to protect herself as there was a huge crowd.³⁶⁴

Access to computer with dishonest intent

Senior Superintendent KONG Man-keung, Public Relations Branch of the Hong Kong Police, reported that from 26 September to 6 November the Police had arrested 13 persons, including 10 men and 3 women, from the age of 13 to 39, on the alleged offences of “access to a computer with criminal and dishonest intent” and “criminal intimidation”.³⁶⁵

According to the Security Bureau, between 2011 and 2013 there were 128 prosecution cases pertaining to section 161 of the Crime Ordinance, of which 114 resulted in conviction. During the Occupy Movement, 11 were arrested on the above offence for inciting others to cyber attacks on the network systems of Hong Kong government departments or private organizations by using hackers’ websites or software. Two had been charged by the police. Separately, a person uploaded the personal data of a police officer and his family members and posted intimidating messages. The police arrested the man for suspected “criminal intimidation”.

Legislative Councillor Charles Peter MOK indicated that during legislation of section 161 of the Ordinance in 1993, the Secretary for Security explained that the new section was aimed at “penalizing access to a computer for acts preparatory but falling short of the commission of a fraud”. He queried if the police was abusing the Ordinance to monitor opinions posted on the internet. Legislative Councillor Cyd HO Sau-lan pointed out that the police should invoke the Public Order Ordinance if they considered the opinions involved seditious.³⁶⁶

23-year TAM Hiu-fung, who was active on the “Golden Forum”, was accused of posting two articles on the Forum to encourage people to join the Occupy Movement with messages such as “this battle

³⁶³ “Male ‘shopper’ sentenced to two-week imprisonment for hurling water bottle against police superintendent”, A17, *Hong Kong Commercial Daily*, 25 April 2015.

³⁶⁴ “American reporter bound over to be of good behavior for standing on car top during Occupy Mong Kok (13:56)”, the News, Instant News, *Ming Pao*, 5 December 2014; “American woman photojournalist bound over for criminal damage”, A02, *Wen Wei Po*, 6 December 2014.

³⁶⁵ “So far 13 persons involved in the Occupy arrested for criminal intimidation and computer-related offences”, A04, 4 November 2014.

³⁶⁶ “Occupy Movement callers charged of “access to a computer with dishonest intent”, Police accused of abusing prosecution power, Tung-kwok Lai: consider conviction rate”, A05, *Ming Pao*, 6 November 2014.

will be the turning point of the whole revolution”, “remember, after success, actions must continue to escalate”, “if you are a man then come revive Mong Kok, let’s all go to MK tonight and try our utmost to make the police use force” and “the lifeline of HK should be the MTR...but if the government want to play, let’s go all the way with them”. The police captured TAM’s articles while carrying out cyber patrol duties the day after the incident. It found out that over 2,000 and 10,000 people gathered respectively on the day and the next in the Occupy area. The police traced the IP address of the articles and identified an address in Tin Shui Wai where TAM was located. He was arrested the day after the incident. TAM admitted to one count of access to a computer with criminal intent. Another count of the same offence was disposed of by way of offering no evidence against the defendant. In sentencing on 27 May, the magistrate pointed out that the defendant posted very irresponsible opinions on the internet and ordered him to perform community service for 100 hours. (TMCC415/15)³⁶⁷

Vehicle mechanic YU Tat-shing was charged with access to a computer with dishonest intent in relation to 326 attacks on the network systems of the government launched in one day on 4 October during the Occupy period. The case was adjourned to 31 December for mention at Kwun Tong Magistracy and the defendant continued to have no case to answer. The magistrate adjourned the case to 24 February 2015 for the prosecution to obtain legal advice.³⁶⁸ (KTCC 6085/14)

20-year old undergraduate TONG Wai-leung was charged with one count of access to a computer with dishonest intent for using a computer to send out intimidating message on 19 October. Aggrieved with a policeman called NG for arresting Occupy protesters in Mong Kok, the defendant reproduced a message on a discussion forum in the internet claiming that gangsters were offering \$600,000 for “a hand, a foot” of a daughter of the policeman. The defendant pleaded guilty and the case was adjourned to 13 April for verdict.³⁶⁹

First year undergraduate at PolyU CHU Hin-lun was alleged to have used a computer at a flat in North Point to attack the network systems of the police causing system slow-down during the Occupy period in early October. He was charged with one count of access to a computer with dishonest intent to cause loss to others. The Office of the Government Chief Information Officer found that the police network system was attacked over 7,000 times by a hacker from the same computer. The police arrested the defendant CHU through tracing the IP address of the computer. Under caution, CHU admitted to be connected with the incident. But from further investigation, the police found the computer system of the undergraduate was different from that used in the attack of the system of the police and the time of attack was also different. The prosecution withdrew the charge when the case was brought up for mention after adjournment at Eastern Magistracy on 24 February. The magistrate had the defendant bound over to be of good behavior on his own recognizance in a sum of \$2,000 for two years as an alternative.³⁷⁰

Arrest by appointment/abrupt arrest

Since 13 January, the Police had made appointments with 32 persons for investigation’s sake. Benny TAI Yiu-ting, CHAN Kin-man, CHU Yiu-ming, 11 core members of Hong Kong Federation of Students

³⁶⁷ “Prima facie case against Occupy youth Pak-shan Chan for assaulting police established, CityUHK AD programme student bound over for hitting policeman with hard object, School certificate student to be ruled for hitting policeman on the face at the end of the month”, A14, *Wen Wei Po*, 12 May 2015; ““Golden brother” calling for Occupy MK in the internet admitted to computer crime”, A12, *Ming Pao*, 12 May 2015.

³⁶⁸ “Male student accused of intimidating police in the internet bound over”, A10, *The Sun*, 31 December 2014.

³⁶⁹ “An undergraduate awaits sentence next month for intimidating a police officer’s daughter”, A14, *Ta Kung Po*, 31 March 2015.

³⁷⁰ “Two men bound over for offences during the occupation period”, A04, *Sing Pao*, 25 February 2015.

(HKFS) and Scholarism, and 9 Members of the Legislative Council (LegCo) were alleged to “organize and incite others to take part in unauthorized assembly”, “allure others to take part in unauthorized assembly” and “take part in unauthorized assembly”. Among them, only lawmaker WONG Yuk-man pledged to comply with the Police’s bail conditions; the rest were released pending investigation after refusing bail.³⁷¹

Name List:

Initiators of Occupy Central - Benny TAI Yiu-ting, CHAN Kin-man, CHU Yiu-ming and Jimmy Lai Chee-ying (Apple Daily).

Students - HKFS Secretary-General Alex CHOW Yong-kang, Lester SHUM Ngo-fai, Member of the Standing Committee of HKFS Eason CHUNG Yiu-wah, Yvonne LEUNG Lai-kiwok, the Chinese University Student Union President Tommy CHEUNG Sau-yin, Vice President Gary FONG Chi-shun, Scholarism’s Convener Joshua WONG Chi-fung, spokespersons Agnes CHOW Ting and Oscar LAI Man-lok, and fellow member LAM Shun-hin.

University Lecturers - Horace Chin Wan-kan (Chin Wan) of the Department of Chinese of the Lingnan University, SHIU Ka-chun of the Department of Social Work of the Hong Kong Baptist University, Eric CHEUNG Tat-ming of the Faculty of Law of the University of Hong Kong.

LegCo Members - Alan LEONG Kah-kit of the Civic Party, Gary FAN Kwok-wai of the Neo Democrats, LEE Cheuk-yan and Cyd HO Sau-lan of the Labour Party, CHAN Chi-chuen and Albert CHAN Wai-yip of the People Power, and LEUNG Kwok-hung (Long Hair) and WONG Yuk-man of the League of Social Democrats.

Members of Political Groups - LEE Wing-tat of the Democratic Party, Tanya CHAN Suk-chong of the Civic Party, MUNG Siu-tat of the Hong Kong Confederation of Trade Unions, Iverson Tsang Chun-ying of the League of Social Democrats, TAM Tak-chi of the People Power, and Johnson YEUNG Ching-yin, WONG Yeung-tat and YEUNG Chi-ching of the Civil Human Rights Front.

On the morning of 17 April, the Police made an appointment for arrest with Ivan LAM Long-yin, former Convener of Scholarism. He was arrested at the Tin Sum Police Station in Shatin on suspicion of taking part in an unlawful assembly one and an half year ago during a district visit made by the Chief Executive LEUNG Chun-ying.³⁷²

Others

AU YEUNG Tung was alleged to attempt to jump off from the footbridge linking to the Central Government Complex on the first day of the Occupy Movement, an act of performance art he claimed to voice his discontent with the 8.31 Decision made by the Standing Committee of the National People's Congress. He was charged with the offence of “obstructing a public place”. Appearing at the court 21 May, he pleaded not guilty to the charge. Police Constable LEUNG Ka-ho appeared before the court as summoned witness. He said that at about 2:10 p.m. on 28 September, AU YEUNG Tung was seen climbing over the railings of the footbridge, sitting at a flower box outside the footbridge. He started counting loudly from one. Two social workers came and chatted with the accused. He learnt from the social workers that the defendant was going to count from 1 to 2047. Traffic control

³⁷¹ “The Occupy trio released pending investigation after refusing bail, Police will arrest 40 persons in March”, A01, *Sing Pao Daily News*, 25 January 2015.

³⁷² “Member of “Orchid Gardening” acquitted of obstructing police, Turning smartphone flashlight on police officers is a provocative act, says Magistrate”, A04, *Sing Pao*, 18 April 2015.

measures were then implemented by the Police at Harcourt Road beneath the footbridge. Firemen and a negotiator were called, and a safety cushion was set up. Harcourt Road eastbound was sealed off, bringing traffic to a halt. When cross-examining LEUNG, the defence pointed out that the defendant had shouted out at the time of the incident, "I, AU YEUNG Tung, am a performance artist. I am throwing out an artwork entitled Fists up 2047 times for Struggle." In reply, LEUNG said that he had no idea about that. The defence further claimed that AU YEUNG might not have climbed over the railings if the police constable had not had come near to him. The police constable replied that might be the case. The defence held that the defendant's act caused no direct obstruction and he had the right to express himself. His act was with reasonable excuse. (ESCC196/15)³⁷³

Protesters including Lester SHUM Ngo-fai, Joshua WONG Chi-fung and Raphael WONG Hoi-ming were issued letters informing them of the legal proceedings initiated by the Department of Justice in respect of contempt of court. The Department of Justice filed with the Court of First Instance of the High Court on 2 February 2015 a total of 20 ex parte applications, requesting for leave to initiate legal proceedings in respect of contempt of court against 20 persons allegedly interfered or obstructed on 26 November 2014 bailiffs of the Judiciary, and the police officers who were asked to come for assistance, in enforcing an interim injunction order granted by Mr Justice Thomas AU Hing-cheung. Twelve men and five women were accused of obstructing public officers, assaulting and obstructing police officers in the execution of duties. They were released on bail and court date was set for 14 January 2015. The defendants were barred from entering a designated area in Mong Kok, except for routing through the area in public transport trips. Some defendants felt resentful at being barred from entering Mong Kok while some others complained that their upper clothes were torn by police officers during the arrest operation.³⁷⁴ (KCCC4164-80/14)

Another 31 persons appeared before the Kowloon City Magistrate's Courts on 27 November for violating injunction to remove road obstacles, making the total number of arrests to 159. All were released on bail ranging from \$50 to \$500 pending trial.³⁷⁵ Among them, 4 protesters, namely the Federation of Students Deputy Secretary-general Lester SHUM Ngo-fai, and Committee Members of the People Power TAM Tak-chi, CHEUNG Kai-hang and LO Yin-kwan, were alleged to have committed offences of obstructing public officers or assaulting police officers. They appealed against the bail conditions barring their entry to Mong Kok, but their appeal applications were refused by the High Court. Disappointed with the judgment, Lester SHUM Ngo-fai said that he would comply with the bail conditions. TAM Tak-chi decided not to appeal further.³⁷⁶(HCMP3118-3121/14)

³⁷³ "Assistant to Frederick Fung Kin-kee charged for causing road closure by attempting to jump from a height on the first day of the occupy period, claiming staging performing art", A09, *Ming Pao*, 22 May 2015.

³⁷⁴ "Allegedly involved in criminal damage and obstruction of police officers in executing duties, Joshua WONG Chi-fung and others accused of contempt of court", A09, *Ta Kung Po*, 11 April 2015.

³⁷⁵ "159 persons arrested for violating injunctions, 31 appeared at court yesterday", A04, *Hong Kong Commercial Daily*, 28 November 2014.

³⁷⁶ "Lester SHUM Ngo-fai's application for amending bail terms rejected", A25, *Hong Kong Economic Times*, 3 December 2014; "The High Court rejects applications for amending bail terms from Lester SHUM Ngo-fai and others", P10, *Headline Daily*, 3 December 2014.

3. Conclusion

In Hong Kong Bar Association's submission to the Legislative Council concerning the rights on peaceful public meetings and public processions back in 2000, it opined that "most public assemblies and processions are protests against government policies or actions. The police are the main troop used by the government to enforce law. In this regard, if the police have excessive discretionary power, and if the exercise of such discretionary power is not expressly stipulated, there will be unnecessary suspicions on the decisions made by the police. It may even give public an impression that police decisions involve political considerations, made partially to favour the government or a political body. When a decision by the police is questioned, it will likely trigger controversies that are close to polarizing the society."

There were many injury cases resulting in a large number of injured persons during the Occupy Movement. No fewer than 1334 persons were physically injured; 707 psychologically injured; and 26 hurt by sex violence. Among them, 528 were taken to hospital. Of the latter, incomplete figures (only up to late October 2014) show that at least 28 people suffered head injuries. Those numbers are unprecedented, causing a deep hurt to the society. There are plenty of cases that are suspected to have involved abuse of power on the part of the police. They include indiscriminate use of violence, indiscriminate arrests, collecting information of protesters, obstructing the work of journalists and medical aids by medical personnel, obstructing public processions, inappropriate behavior, etc. The number of complaints is as high as 1959.

From the incidents revealed in this report, one can see the following "institutional defects" in the police handling of large scale rallies:

Defect 1 : Propensity for using force – the principle of using minimum force was not adhered to in carrying out duties ;

Defect 2 : Giving vent to emotions and taking vengeance – police officers took advantage of opportunities to use force for venting discontent against anti-government protesters, and deliberately made things difficult for the latter by exploiting the bureaucratic institutions.

Defect 3 : Mindset of getting away with it – improper force was exercised covertly or in circumstances where the victim could hardly seek redress of grievance.

The problems listed above are not confined to individual police officers. They were prevalent among parts of the police teams carrying out duties during the Umbrella Movement. Hence, they are "institutional defects".

The responsibility of the police is to protect the safety of citizens and to maintain law and order. They should use the limited power prescribed by law to execute laws and to arrest anyone who breaks the laws, police officers included. If the police actions cause significant casualties, or police officers have behaved inappropriately leading to suspicions on their legitimacy, public confidence on the police force will continually decline. This in turn increases the difficulties of the police in carrying out their duties, resulting in a vicious cycle.

In view of the above, we urge the authorities concerned to adopt the following remedial measures expeditiously:

We urge Mr. LO Wai-chung, Stephen, Commissioner of Police, to make drastic reforms in the institutions and the culture of the police force. We also urge him to disclose the guidelines on the use of force by police and related documents.

We urge the Legislative Council to use its powers under “Legislative Council (Powers and Privileges) Ordinance to set up an independent investigation committee. The committee is to investigate the ways in which the police handled the situations during the Umbrella Movement.

We urge the Hong Kong SAR government to provide a detailed report to the United Nations Committee Against Torture, responding to the accusations of infringing civil rights and suspected abuse of power by the police mentioned in this report.

We will submit this report to the United Nations Committee Against Torture, for UN’s reference and record. If the government does not actively respond to the demands and the contents of this report, we urge the community at large to work together to formulate guidelines on police enforcement of laws in relation to public events. We also urge the community to push forward an agenda for reforming the police force.

Other reference materials:

Matthew Leung, 2014, "Civil Record of Umbrella Movement and Social Reconciliation", *Economic Journal*, 31 December 2014, A21.

KAM C Wong , 2010, "Police Powers and Control in Hong Kong" , *International Journal of Comparative and Applied Criminal Justice* , Spring 2010 , 34(1)

Greyreporter, "PostOccupation and the Youth", 5 December 2014
<http://www.inmediahk.net/node/1029237>

Eddie Shu Fai Chan, 2014, "Promotion is the Beginning of a Collapse of Discipline", 23 December 2014,
<http://www.inmediahk.net/node/1029851>

Related reports:

Amnesty International Hong Kong, 2015, "Interview: Changing role of Hong Kong police, Lawrence Ho", *Human Rights*, Spring issue, <http://www.inmediahk.net/node/1033349>

852 Post, "Semi-annual Anniversary of 9.28", Statistics on Police Abuse of Power; Five Cases of Mysterious Prosecutions

Civil Human Rights Front, Mid-term Report on Observations on Police Power during the Umbrella Movement, 29 December 2014, <http://goo.gl/6a4bR8>

Yau Dun Kit, Civil Human Rights Front Questions the Police for Abusing their Power; Sir Hui: Strictly in accordance with procedures, 31 October 2014
<http://www.inmediahk.net/node/1028028>

Summary of Events

2014	
September	
22 nd	The Federation of Students called for class boycotts. Public lectures were held at Tamar Park for several consecutive days.
23 rd	The Federation of Students staged a protest against LEUNG Chun-ying. Personal particulars of protesters were recorded.
25 th	The Federation of Students organized a procession to the Government House around noon, and remained outside overnight.
26 th	22:30 - The Federation of Students and Scholarship initiated "Barge into Civic Square"
27 th	<p>01:30 - Police set up mills barriers and formed a "human wall" to surround the protesters who were inside the Civic Square. They used pepper spray on protesters outside the Square.</p> <p>04:30 - Riot police used pepper spray and batons to scatter the crowds. Protesters defended themselves with umbrellas, masks and cling film.</p> <p>07:30 - Police marched towards protesters, holding shields in their hands. They scattered protesters gathering at the driveway outside the Legislative Council.</p> <p>13:30 - Police took away protesters inside the Civic Square.</p> <p>21:30 - There was a standoff between the protesters and the police at the elevated walkway near CITIC Tower. Police announced an expropriation of the elevated walkway as their operation zone.</p> <p>23:30 - "Occupy Central" announced an immediate start of the Occupy Movement, ahead of the original schedule.</p>
28 th	<p>12:00 - Police took away the audio equipment being carried into the protest zone, and arrested several Legislative Councillors.</p> <p>13:51 - Police announced a cordoning off of Tim Mei Avenue zone outside the Central Government Offices.</p> <p>19:10 - Police fired 87 tear gas grenades at nine spots. Some protesters moved towards the Wanchai direction. Some stayed at Harcourt Road in Admiralty; some gathered at Causeway Bay.</p> <p>22:30 - News spread that the police would deploy rubber bullets.</p>

29 th	<p>A lot of citizens continued to stay on the streets. Police sent negotiation experts, but they failed to persuade the citizens to leave.</p> <p>Class boycotts and strikes were held. Some secondary school students organized processions to protest against police violence.</p>
30 th	<p>Some citizens occupied a site at Tsimshatsui.</p> <p>A car drove at a high speed towards the crowds occupying Mong Kok.</p>
October	
1 st	<p>Members of Scholarism stood in silence to protest at the National Day flag-raising ceremony.</p> <p>LEUNG Chun-ying (Chief Executive), Carrie LAM Cheng Yuet-ngor (Chief Secretary for Administration), LAI Tung-kwok (Secretary for Security) and Andy TSANG Wai-hung (Commissioner of Police) gave talks to the police to boost their morale. TSANG said to the police, "...facing criticisms and verbal abuse, I want to tell you that you haven't done anything wrong."</p>
2 nd	<p>01:00 - Scholarism and the Federation of Students called protesters to surround the Chief Executive's Office. Protesters sat down before the road barricade. Some indicated they wanted to occupy Lung Wo Road.</p> <p>16:00 - 400 uniformed policemen walked into the Chief Executive's Office, carrying loads of tear gas and rubber bullets. Police arranged a truck to supply food and water to police on duty, and asked protesters to give way. Yet, there was an explosive signage on the truck.</p> <p>Members of the legal profession held a candlelight vigil outside the High Court building.</p> <p>Some protesters indicated that they wanted to occupy Lung Wo Road. They suddenly moved mills barriers to block the westbound lane. Traffic was blocked for 15 minutes.</p>
3 rd	<p>Mong Kok: Protesters were attacked by counter-protesters. Clashes were frequent, occurring around 2pm, 5pm and 8pm. The tents of the protesters were smashed up. Some protesters were chased. Occupiers complained they saw the police let go the attackers.</p> <p>Causeway Bay: Counter-protesters hurled insults at occupiers in the daytime. At night, people wearing masks smashed up the protesters' tents, vandalized the supplies stations, and attacked the protesters. A woman protester was sexually assaulted.</p>
4 th	<p>Admiralty: Clashes occurred between pro and anti-Occupy people in the morning.</p> <p>Mong Kok: Counter-protesters and some troublemakers violently attacked the defense line set up by the occupiers during the daytime. At night, some triad gangsters pretended to be occupiers and confronted the police. Eye witnesses saw police escort trouble makers to taxis and allow them to leave.</p> <p>A woman occupier was sexually assaulted and harassed, and verbally threatened by an anti-Occupy man.</p> <p>The Tsimshatsui occupation zone vanished because of a lack of occupiers.</p>

5th	<p>A number of clashes occurred in the assembly area in Mong Kok occupation zone. Police used pepper spray to dispel the crowds in the early morning. Clashes between the pro and the anti camps continued in Mong Kok and Causeway Bay. Counter-protesters kept provoking the crowds. Many people were injured.</p> <p>An anti-Occupy advocate attempted to burn himself and another attempted to jump off an elevated walkway.</p>
6th	<p>Access to the Central Government Offices was partially cleared. Civil servants working there resumed work.</p> <p>Calm returned to Mong Kok.</p>
8th	<p>Legislative Council resumed its meetings.</p>
10th	<p>Some supporters staged a sit-in outside British Consulate at Admiralty for several consecutive days.</p> <p>Scholarism called for “One person one tent to fill up the streets”</p> <p>The Federation of Students and Scholarism held a rally, calling for perseverance in defending the streets.</p> <p>The Legislative Council House Committee passed a resolution proposed by Jeffrey Lam of Business and Professionals Alliance for Hong Kong to investigate the Occupy Movement.</p> <p>Scholarism and the Federation of Students wrote an open letter to XI Jinping.</p>
13th	<p>Police cleared obstacles at 27 spots. Seven road sections were re-opened.</p>
14th	<p>Some protesters made another attempt to occupy Lung Wo Road. Riot police used pepper spray and batons to scatter them.</p>
15th	<p>TVB reporters captured footage of seven policemen assaulting Ken TSANG Kin-chiu of Civic Party at a quiet corner off Lung Wo Road.</p>
17th	<p>Police cleared the road blocks in Mong Kok on a large scale in the morning. Protesters re-occupied the roads at night. Clashes occurred. Many were injured and arrested. Since then, there were clashes almost every night until 25 October.</p>
18th	<p>Some protesters advocated “Recover the Road Junction at 12:00”. Clashes ensued. Many were injured.</p>
20th	<p>High Court accepted the applications from three light buses and taxis industry associations and from the owner of CITIC Tower, and granted a temporary injunction order.</p>
21st	<p>Five representatives of the Federation of Students held a meeting with government officials.</p>
22nd	<p>Some counter-protesters cleared the road blocks by themselves and read aloud the injunction order.</p>

23 rd	A vertical banner with the words “I want genuine universal suffrage” appeared on Lion Rock for the first time. It was soon removed by the government.
24 th	Occupiers were again attacked by people wearing masks. Police took no action.
25 th	Three Anti-Occupy groups, including “Blue Ribbon Campaign”, “Alliance in Support of our Police Force” and “Justice Alliance” held a candlelight vigil in Tsimshatsui, during which four reporters were assaulted.
November	
6 th	Clashes recurred in Mong Kok. Police advanced their defense line on account of flashlight shone on them by protesters. Many were injured.
15 th	Five representatives of the Federation of Students planned to visit Beijing, but were told at the Hong Kong airport that their entry to the Mainland would be denied because of a lack of valid documents. A number of occupiers, members of student associations and protesters who wanted to travel to the Mainland for various personal reasons were denied entry.
16 th	Andy TSANG Wai-hung, Commissioner of Police, said that the Court judgment clearly required the police to help execute the Court Order. He added that sufficient manpower had been prepared, and that the police would make full efforts to assist bailiffs in carrying out the Court order.
18 th	The protest area in front of CITIC Tower was cleared in the morning. Clashes recurred in Mong Kok at night.
19 th	Some protesters gathered outside the Legislative Council Building at night. Some smashed the glass doors of the building.
23 rd	An Umbrella Movement Community Day - Scholarism, The Federation of Students, Occupy Central and pan-democrats groups set up 21 street booths in five districts to promote the concept of genuine universal suffrage.
24 th	Police cleared the obstacles for occupying the road about the British Consulate. Tents were moved to the protest area on the pavement.
25 th	3000 police officers were deployed to assist Chiu Luen Public Light Bus Company in carrying out the injunction to clear barriers on Argyle Street. Protesters shifted to Langham Place on Portland Street. Police dispelled the crowds with tear agents spray. More than 80 people, including LEUNG Kwok Hung of the League of Social Democrats, were arrested. Many were injured.
26 th	4000 police officers were deployed to carry out the second round of clearance in Mong Kok. Arguments broke out between the protesters and the agents of the solicitors a few minutes after the clearance started. 32 people were arrested. The Mong Kok protest zone came to an end. Nathan Road was re-open to traffic in the afternoon. Police withheld some protesters’ supplies and arrested a few occupiers for “attempted theft”.

	At night, protesters gathered again at the junction between Sai Yeung Choi Street and Shantung Street in Mong Kok. There were confrontations with the police.
27 th	Protesters protested in the form of “mobile occupation” in Mong Kok for two consecutive nights. A number of citizens were hit by police batons. A number of citizens and reporters were arrested, and some were injured.
29 th	The Journalists Association, the Press Photographers Association, RTHK Programme Staff Union, Next Media Trade Union, and Journalism Educators for Press Freedom joined together to report to the police regarding the arrest of the press photographer.
30 th	The Federation of Students initiated actions to “Target the Regime; Surround the Central Government Offices”. It called on citizens to go near the Chief Executive’s Office and Lung Wo Road and occupy the road sections there. The police deployed 7,000 police officers. Protesters advanced from different directions towards Tim Wa Avenue and Tim Mei Avenue during the night and the early hours of the following day. They occupied Lung Wo Road twice. The police lost ground a number of times. They sprayed tear agents liquid. Several clashes occurred until 7:00 in the morning, when the police violently dispelled the citizens and forced them back to the protest zone. Some police officers could not control their emotions. They hurled insults on protesters, including showing their middle fingers, showing their tongues, and using foul language. They destroyed many large banners hanging on the elevated walkway. Many protesters had wounds on their heads.
December	
1 st	High Court accepted the applications from the two subsidiaries of Kwoon Chung Bus Holding Limited – All China Express and Kwoon Chung Motors Company Limited, and granted injunction order in relation to certain sections of the Admiralty occupation zone. Joshua WONG Chi-fung and some other members of Scholarism started a hunger strike, during which they only drank water.
3 rd	65 people, including the initiators of Occupy Central and Cardinal Joseph ZEN (Bishop Emeritus of Hong Kong) turned in to the police. None were arrested or prosecuted. They could leave immediately.
5 th	Close to 100 staff members of different universities walked from High Court in Admiralty to the Central Government Offices, wearing academic gowns or black clothes, to protest for the use of excessive force by the police in the clearance operations, causing injuries to many students and other protesters.
7 th	18 organizations, including Umbrella Parents, Parents Concern Group on National Education and Hong Kong Shield, organized a public procession to protest against police violence. Close to 2000 people joined the procession. The organizers held a press conference to protest against abuse of force by police in handling protesters and to censure police for violating the basic rights of detainees.

	Some occupiers announced they would form political groups to run for District Council election in the following year.
10th	Police arrested four members of occupying groups from their homes the night before the clearance, including Raphael WONG Ho-ming of the League of Social Democrats, Anthony SO Ho of People Power, Alvin CHENG of Student Front and WONG Yeung Tat of Civic Passion.
11th	The clearance was started by agents of Kwoon Chung's subsidiary All China Express and bailiffs. About 200 protesters sat down in the protest zone, waiting to be arrested. Police deployed 7000 officers and cordoned off the occupation zone. They arrested 209 people, including many pan-democrats and members of Scholarism and the Federation of Students. Both the eastbound and the westbound lane of Harcourt Road were re-open to traffic at 9:00 pm, signifying the end of the 75-day long Occupy movement.
15th	Police cleared the Causeway Bay occupation zone, and arrested 17 protesters who staged a sit-in. The Legislative Council Secretariat asked the occupiers at the demonstration area outside the Legislative Council building to leave. Some protesters, including Uncle WONG (an elderly protester) moved to the pavement of Tim Mei Avenue to continue the occupation.
From November 28th, some protesters went to the pedestrian zone of Mong Kok to continue occupation in the name of "gau wu" (shopping) at around 10:00 pm every night.	
2015	
January	
5th	Police got in touch with people involved in instigating, organizing and participating in the Occupy Movement, and invited them to the Police Headquarters at Wanchai to help with the investigations.
7th	The government issued the "Method for Selecting the Chief Executive by Universal Suffrage Consultation Document". The second round of consultation started.
12th	Before and after delivering his Policy Address, Leung Chun-ying said the Occupy Movement damaged the rule of law, and that there was evidence of collusion with external forces.
13th	The government submitted to Beijing the "Report on the Recent Community and Political Situation in Hong Kong" (the Public Sentiments Report).
February	
12th	Edward CHAN King-sang, former Chairman of the Barrister Association, and others set up the Umbrella Relief Fund to provide financial assistance to those occupiers injured or involved in lawsuits. It was estimated that 100 to 200 people were in need of assistance.

March	
17th	Independent Police Complaints Council (IPCC) convened an open meeting, during which the police updated IPCC on the complaint statistics and complaint investigation in connection with police actions in the occupy movement.
April	
10th	Lester SHUM Ngo-fai, Joshua WONG Chi-fung and others received prosecution letters from Secretary for Justice.