

CHAPTER 11**INCIDENT DAY – SUNDAY 11 AUGUST 2019
KWAI FONG STATION AND TAI KOO STATION****Introduction**

11.1 This Chapter deals with an incident inside Kwai Fong Station on the Tsuen Wan Line on 11 August where a round of tear gas was fired and another incident inside Tai Koo Station on the Island Line where pepper balls were fired. These were two among the incidents flaring up in 15 locations across Hong Kong that day. The events aroused public concern over the Police firing of tear gas inside MTR station and targeting pepper ball launcher at close-range, attracting four Reportable Complaints (RCs) and five Notifiable Complaints (NCs) (see paragraphs 11.33-11.34 below for details). These complaints are investigated by CAPO and each RC will be monitored by the IPCC assigning observer(s) to attend interview(s) and observe the collection of evidence conducted by CAPO. The purpose of this Chapter is to enable the IPCC to inform itself of the facts of the incidents giving rise to these complaints and the context in which these incidents took place, so that the IPCC is in a better position to undertake its function under section 8(1)(a) of the IPCC Ordinance in monitoring and reviewing the investigations of the individual complaints by CAPO. At the same time, the opportunity is taken to make recommendations to the Commissioner of Police under section 8(1)(c) of the IPCC Ordinance so that complaints from future Police operations may be prevented.

Public Order Events Leading to the Events on Sunday 11 August 2019

11.2 After the Yuen Long Incident on Sunday 21 July, protests arising from the Fugitive Offenders Bill continued to escalate in scale, frequency, level of violence and number of protest locations.

11.3 On 26 July, about 15 000 protesters¹ (according to the organiser), dressed in black, staged a sit-in protest at the arrival hall of the Hong Kong International Airport (Airport). Some of them handed out leaflets to enlist arriving passengers' support. Protesters returned to occupy the Airport again on 9 August for another sit-in protest at the arrival hall to last until 11 August.

¹ Police estimate figure: 4 000 at peak.
RTHK (2019-07-26). 大會稱機場集會 1 萬 5 千人參與 警方稱高峰期有 4 千. Retrieved from <https://news.rthk.hk/rthk/ch/component/k2/1470698-20190726.html>

11.4 On Saturday 27 July, despite Police refusal to issue a Letter of No Objection (LoNO), about 288 000 protesters² (according to the event organiser), some wearing helmets and protective gear, marched on the roads in Yuen Long dubbed “Reclaim Yuen Long”, and then blocked major roads in the district. When the Police turned up calling upon the protesters to disperse, they began attacking the Police with umbrellas, bricks, wooden shields and other objects. Violent protesters later surrounded Yuen Long Police Station, again throwing bricks and other objects, causing obstruction of the road outside the station and the suspension of Report Room services.

11.5 On the following day, there was another protest on Hong Kong Island when participants of an authorised public meeting at Chater Garden diverted to Causeway Bay and Western District, ending in violent clashes in Sheung Wan where the Police deployed tear gas for dispersal.³ Successive public protests then ensued. On Thursday 1 August, members from the financial sectors took to the streets in Central to demonstrate against the Fugitive Offenders Bill.⁴ The medical and healthcare profession held a rally at Edinburgh Place on 2 August and around ten thousand participants from the Civil Service also gathered at Chater Garden on the same day to demand an independent inquiry into recent incidents.⁵ On Saturday 3 August, protesters holding a banner with the words “Police have too much power” marched from Tai Kok Tsui to Mong Kok and Tsim Sha Tsui.⁶ On Sunday 4 August, protesters blocked roads in Tseung Kwan O, Kwun Tong, Mei Foo, Wong Tai Sin, Tin Shui Wai and Causeway Bay, all necessitating law enforcement action, resulting in clashes with the Police.⁷

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- ² Police estimate figure: around 100 000 at peak. Stand News (2019-07-27). 【7.27 元朗】「遊元朗」撤離期間 警方連放催淚彈海綿彈 速龍小隊入西鐵站揮棍打人. Retrieved from <https://www.thestandnews.com/politics/7-27-元朗-遊元朗-撤離期間-警方連放催淚彈海綿彈-速龍小隊入西鐵站揮棍打人/>
- ³ Ming Pao (2019-07-28). 【遮打集會·不斷更新·短片】警方中環驅散示威者 示威者沿不同方向撤退 (23:53). Retrieved from <https://news.mingpao.com/ins/港聞/article/20190728/s00001/1564298470146/>【遮打集會-不斷更新-短片】警方中環驅散示威者-示威者沿不同方向撤退
- ⁴ RTHK (2019-08-01). 金融界「快閃」集會促獨立調查站滿遮打花園. Retrieved from <https://news.rthk.hk/rthk/ch/component/k2/1471963-20190801.htm>
- ⁵ Ming Pao (2019-08-02). 【逃犯條例】逾千醫護集會 醫生嘆業界撕裂促設獨立調查 (19:31). Retrieved from <https://news.mingpao.com/ins/港聞/article/20190802/s00001/1564745343401/>【逃犯條例】逾千醫護集會-醫生嘆業界撕裂促設獨立調查
- HK01 (2019-08-02). 【公務員集會】大會宣布 4 萬人冒雨出席 警方：最高峰 1.3 萬人參與. Retrieved from <https://www.hk01.com/政情/359454/公務員集會-大會宣布 4 萬人冒雨出席-警方-最高峰 1-3 萬人參與>
- ⁶ BBC (2019-08-03). 香港旺角遊行偏離線路 多處衝突警方發催淚彈. Retrieved from <https://www.bbc.com/zhongwen/trad/chinese-news-49219057>
- ⁷ The Initium (2019-08-04). 0804 將軍澳及港島西示威：入夜示威者包圍多區警署，在多處堵路. Retrieved from <https://theinitium.com/article/20190804-whatsnew-tseungkwano-hkislandwest-assembly/>

11.6 Following the siege of Yuen Long Police Station on 27 July, sieges and attacks of police stations, mostly near MTR stations, became commonplace. During the two weeks leading to Sunday 11 August 2019, at least 15 police stations had been attacked by protesters.

11.7 On 30 July, hundreds of protesters assembled outside Kwai Chung Police Station.⁸ Police officers used pepper spray and batons to disperse the crowd. One police station sergeant raised a shotgun loaded with bean bag rounds to protect himself and his colleagues from protesters.

11.8 For three consecutive days on 1, 2 and 3 August, protesters besieged Ma On Shan Police Station.⁹ Earlier on 1 August, protesters targeted Shatin Police Station.¹⁰

11.9 On 3 August, there were violent clashes between protesters and the Police in Wong Tai Sin, where violent protesters were seen hurling hard objects and umbrellas and discharging a fire extinguisher at police officers.¹¹ Violent protesters and some local residents besieged Wong Tai Sin Police Station and Disciplined Services Quarters next to it, attacking both with numerous miscellaneous objects. Police officers fired multiple rounds of tear gas for dispersal.

11.10 That night, Mong Kok Police Station and Tsim Sha Tsui Police Station were under siege by violent protesters throwing bricks and hard objects. Tsim Sha Tsui Police Station was in particular the target of violent protesters. They set fire at various locations in its surroundings, damaged several vehicles inside the station with bamboo sticks and hurled bricks and hard objects into the building. On 4 August, hundreds of violent protesters staged another stand-off outside Wong Tai Sin Police Station, with occasional attacks with bricks and miscellaneous objects.¹² Police officers responded with tear gas, rubber rounds (i.e. rubber baton rounds and rubber slugs) and react rounds in attempts at dispersal.

⁸ HK01 (2019-07-30). 【728 集會】示威者葵涌警署聲援變衝突 警員持長槍指向示威者. Retrieved from https://www.hk01.com/突發/358160/728_集會-示威者葵涌警署聲援變衝突-警員持長槍指向示威者

⁹ Sing Tao Daily (2019-08-02). 【逃犯條例】示威者一度拉起馬鞍山警署捲閘 防暴警採驅散行動. Retrieved from <https://std.stheadline.com/instant/articles/detail/1058152/即時-香港-逃犯條例-示威者一度拉起馬鞍山警署捲閘-防暴警採驅散行動>

HK01 (2019-08-02). 【逃犯條例】馬鞍山警署遭示威者包圍 防暴警湧出馬路清場. Retrieved from <https://www.hk01.com/突發/359133/逃犯條例-馬鞍山警署遭示威者包圍-防暴警湧出馬路清場>

Apple Daily (2019-08-03). 【逆權運動】逾百市民再圍馬鞍山警署 速龍胡椒彈射街坊. Retrieved from <https://hk.appledaily.com/breaking/20190802/DABLP3IODR3RAIEUJS4LH5XZ4A/>

¹⁰ RTHK (2019-08-02). 過百人到沙田警署聲援疑被警方帶走人士 有人擲雜物. Retrieved from <https://news.rthk.hk/rthk/ch/component/k2/1471993-20190802.htm>

¹¹ Commercial Radio Hong Kong (2019-08-04). 防暴警察午夜前黃大仙向聚集人士舉黑旗警告施放催淚煙. Retrieved from https://www.881903.com/Page/ZH-TW/newsdetail.aspx?ItemId=1148600&csid=261_341

¹² Now TV (2019-08-04). 黃大仙警署及紀律部隊宿舍爆警民衝突 警施放催淚彈驅散. Retrieved from <https://news.now.com/home/local/player?newsId=357846>

11.11 The Cross Harbour Tunnel at Hung Hom was also a target. In the late afternoon of 3 August, some protesters barricaded the toll booths at the entrance in Hung Hom, blocking the traffic into and out of the tunnel. On 3, 4, 5 and 10 August, protesters again placed various objects at the toll booths, paralysing the tunnel traffic temporarily.¹³

11.12 On Monday 5 August, the protesters escalated the scale of their action, while social media was awash with calls to launch a city-wide strike and uncooperative campaign.¹⁴ Protesters resorted to urban guerrilla tactics in multiple districts in Hong Kong Island, Kowloon and the New Territories, blocking roads at many busy traffic locations: suddenly cropping up and barricading the roads before vanishing very quickly. Violent protesters also moved on to a number of police stations including Kwai Chung Police Station, Shatin Police Station, Sham Shui Po Police Station and Tin Shui Wai Police Station, hurling hard objects, petrol bombs and setting fire outside the stations. That evening, some protesters had fights in North Point and Tsuen Wan with people dressed in white and holding wooden poles who, according to some media, were members of the Fujianese community.¹⁵ On this day, the Police discharged about a thousand rounds of tear gas, 170 rubber rounds and 11 super sock (bean bag) rounds in 14 districts – a record high up to 11 August.

11.13 On the night of 6 August, a few hundreds of protesters assembled outside Sham Shui Po Police Station, chanting “triad cops” and “triad society”, and some violent protesters again shining laser beams, hurling bricks and glass bottles at the station.¹⁶

11.14 On 7 August, hundreds of protesters gathered at Hong Kong Space Museum and shone their laser pointers on the egg-shaped dome of the museum in protest against the arrest of the Student Union President of Hong Kong Baptist University for Possession of Offensive

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- ¹³ HK01 (2019-08-03). 【旺角遊行】示威者快閃紅隧 步行隧道屬違法 最高可判監 6 個月. Retrieved from <https://www.hk01.com/政情/359803/旺角遊行-示威者快閃紅隧-步行隧道屬違法-最高可判監 6 個月>
- Now TV (2019-08-04). 示威者銅鑼灣遊行至灣仔 堵塞紅隧港島出入口. Retrieved from <https://news.now.com/home/local/player?newsId=357936>
- Now TV (2019-08-05). 示威者傍晚佔領紅隧九龍入口 阻塞來回路線. Retrieved from <https://news.now.com/home/local/player?newsId=358047>
- Bastille Post (2019-08-10). 示威者指揮車輛免費過海 紅隧職員：會被扣薪金. Retrieved from <https://www.bastillepost.com/hongkong/article/4883285-【堵塞紅隧】示威者指揮車輛通過收費亭-紅隧職員>
- ¹⁴ Ming Pao (2019-08-06). 八五罷工 多區集會 示威變游擊. Retrieved from <https://news.mingpao.com/ins/圖輯/photo3/album/s00014/1565084593516/八五罷工-多區集會-示威變游擊>
- ¹⁵ The Standard (2019-08-06) Attacks in North Point, Tsuen Wan. Retrieved from <https://www.thestandard.com.hk/section-news/section/11/210378/Attacks-in-North-Point,-Tsuen-Wan>
- ¹⁶ Hong Kong Free Press (2019-08-07). Angry protests and tear gas in Sham Shui Po after arrest of Hong Kong student leader for possessing laser pens. Retrieved from <https://hongkongfp.com/2019/08/07/angry-protests-tear-gas-sham-shui-po-arrest-hong-kong-student-leader-possessing-laser-pens/>

Weapons (POOW), i.e. “laser guns”, the day before.¹⁷

11.15 On 10 August, there were protests in Tai Po, Tai Wai, Sha Tin, Kwun Tong, Wong Tai Sin, Tsuen Wan, Tsim Sha Tsui, and other districts.¹⁸ On this day, protesters set barricades with railings and road signs, blocked a number of thoroughfares including the Kowloon entrances of the Cross Harbour Tunnel. Clashes occurred in at least seven districts with riot police officers firing tear gas in Tai Wai and Tsim Sha Tsui while some violent protesters threw petrol bombs and hurled miscellaneous objects and stones at police officers. Some violent protesters laid siege to Tsim Sha Tsui Police Station setting fire outside, shining laser beams, and blocking the station with miscellaneous objects. The Police used tear gas and rubber rounds for crowd dispersal.

11.16 In this atmosphere, the events of Sunday 11 August unfolded. A Chronology of the protests of this day appears as Annex to this Chapter.

General Picture of the Protests on 11 August 2019

11.17 For 11 August, three large-scale public meetings against the Fugitive Offenders Bill were planned by the protesters. The first was a public meeting at Victoria Park to be followed by a Hong Kong Island East procession from Victoria Park to Java Road Playground in North Point for a public meeting there. The second was a public meeting at Maple Street Playground in Sham Shui Po to be followed by a procession from Maple Street Playground to Sham Shui Po Sports Ground for a public meeting there. The first two were notified to the Police for LoNO. The third, a mass rally at the Airport, had not been notified to the Police for LoNO.

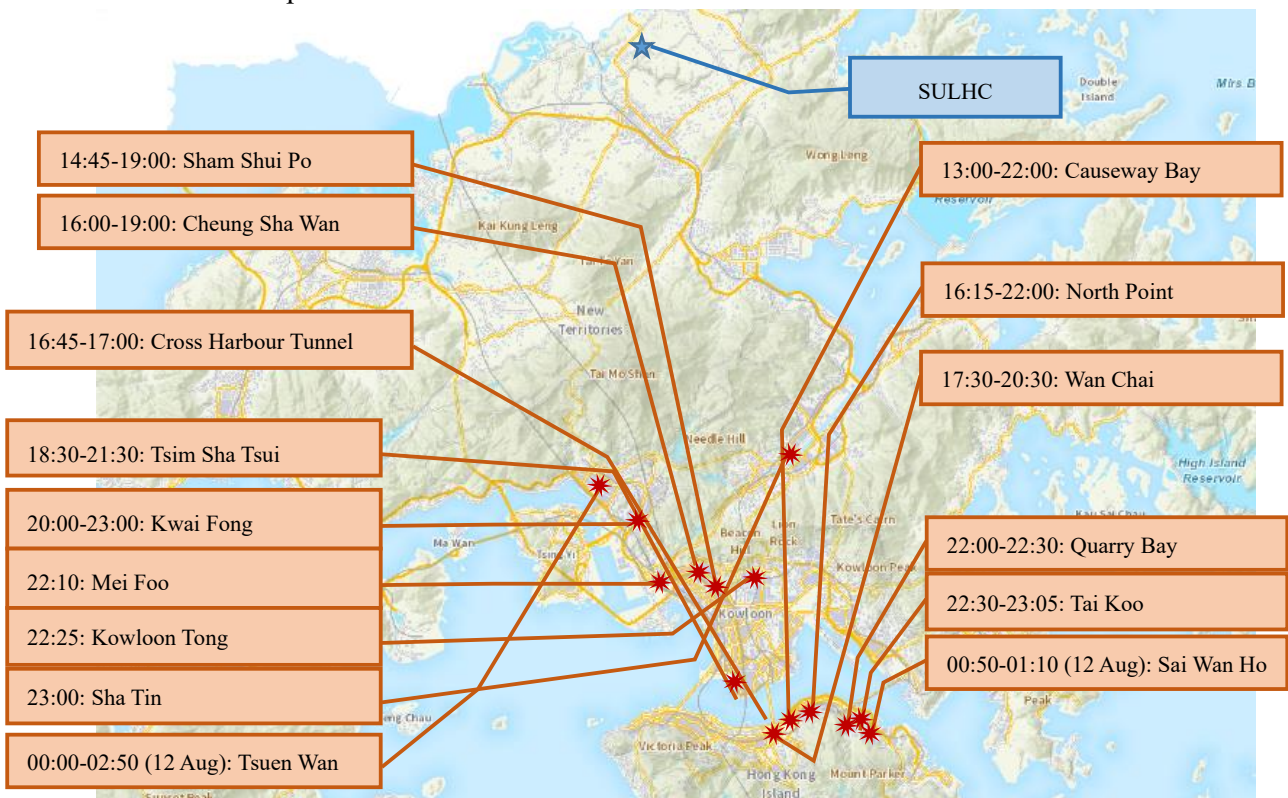
11.18 The Police had issued a LoNO only for the public meeting in Victoria Park, but for safety concern, had refused the other public meetings and processions in Sham Shui Po and Hong Kong Island East. According to the Police, beginning in August 2019, messages had appeared on the internet inciting people to adopt urban guerrilla tactics for extensive damage and blockage of thoroughfares. Calls for escalation of protest action and violence also continued to circulate on the internet. In respect of the Victoria Park public meeting and subsequent procession, the Police anticipated that at some stage of the procession, possibly near the end, it would degenerate into road blockages and aggressive action against officers on duty. The Police also anticipated protesters to proceed with the other public meetings and processions on 11 August despite Police objection. They further expected violent protesters would

¹⁷ Sing Tao Daily (2019-08-08). 千人響應號召 太空館外用雷射筆觀星. Retrieved from <https://std.stheadline.com/daily/article/detail/2044955/日報-港聞-千人響應號召-太空館外用雷射筆觀星>

¹⁸ Ming Pao (2019-08-11). 【逃犯條例】示威者多區快閃堵路 稱要消耗警力免被捕 (01:23). Retrieved from <https://news.mingpao.com/ins/港聞/article/20190811/s00001/1565457389190/【逃犯條例】示威者多區快閃堵路-稱要消耗警力免被捕>

escalate action to paralyse city traffic and attack police officers with highly offensive weapons and great violence. In the light of these potential developments, the Police deployed some 3 850 officers for contingencies across various districts, in addition to 250 officers for safeguarding the integrity of Central Government Complex and Legislative Council Complex and 128 officers for handling Police Headquarters (PHQ) duties.

11.19 On 11 August, as anticipated by the Police, protests arising from the Fugitive Offenders Bill took place in multiple locations (see Map 11-1). The public meeting in Victoria Park was held as scheduled. At around 16:00, protesters branched out from Victoria Park, while some other protesters were seen moving from Hung Hom Station to barricade the toll booths of the Cross Harbour Tunnel to block the traffic there. Another group of protesters marched to Wan Chai. Some of them sprayed graffiti on the base of the Golden Bauhinia sculpture, while others blocked the roads outside PHQ and set different objects on fire. From 17:00 till after midnight, protesters were seen adopting urban guerrilla tactics, using the MTR to mobilise themselves swiftly to occupy roads at different locations in the vicinity and moving on to other spots. On Hong Kong Island, they occupied roads in North Point, Wan Chai, Causeway Bay, Quarry Bay, Tai Koo and Sai Wan Ho. Clashes broke out when the Police took action for dispersal.



Map 11-1: Protests in multiple locations on 11 August
 (Source of base map: Lands Department)

11.20 In Kowloon, the procession in Sham Shui Po started at about 15:20 with about 1 000 participants. Reaching Cheung Sha Wan, protesters started to occupy roads. From 16:00 to after midnight, like those on Hong Kong Island, groups of protesters reportedly travelled by MTR to different districts to block roads including Tsim Sha Tsui, Mei Foo, Kowloon Tong, Kwai Fong, and Sha Tin. They staged protests outside Cheung Sha Wan Police Station, Sham Shui Po Police Station, Tsim Sha Tsui Police Station, Kwai Chung Police Station and Shatin Police Station. Among these, Tsim Sha Tsui Police Station was under the most serious attack from bricks, hard objects, and petrol bombs with violent protesters using gun-like equipment.

11.21 In this context, the incidents at Kwai Fong and Tai Koo Stations took place.

11.22 On 11 August, the Police fired a total of 361 rounds of tear gas, 27 rubber rounds and 14 super sock (bean bag) rounds, along with the use of batons, OC foam and pepper ball launcher. Police officers and police stations were attacked by protesters with a miscellany of offensive weapons, including bricks, sling shots firing steel ball bearings, petrol bombs and fire extinguishers. Multiple roads were blocked with barricades of various kinds. A total of 18 police officers were injured on 11 August, including one with serious burns on his legs. The Hospital Authority at various hospitals treated a total of 71 persons related to the incidents on 11 August.

11.23 A total of 117 persons were arrested during police operations in response to protests at multiple locations across the territory on 11 August and 53 of them were taken directly to San Uk Ling Holding Centre (SULHC).¹⁹ The detention arrangements at SULHC will be discussed at Chapter 14.

11.24 As at 29 February 2020, the number of arrest persons have climbed to 124 persons (94 male and 30 female) in connection with the incidents on 11 August for various offences, including “Unlawful Assembly”, “POOW”, “Taking Part in a Riot”, “Assault on Police Officer”, “Failing to Produce Proof of Identity/Failing to Carry HKID Card”, “Possession of Instruments Fit for Unlawful Purpose”, “Possession of Firearms and/or Ammunitions without Licence” and “Unlawful Public Meeting and Processions”. Among them, 33 persons had been charged in Court pending trial, 79 were still under police investigation and 12 had been released.

11.25 There is a civil claim against the Police for physical and psychological damage arising from Police action at the Kwai Fong Station on 11 August. As at 29 February 2020, details of the civil claim and its progress were not yet available to the IPCC.

¹⁹ SULHC was located in Man Kam To, near the Hong Kong border with the Mainland. There were spells of allegations in the social media on arrestees being tortured or raped by police officers, delayed from receiving medical treatment and legal service while at the Centre after the arrests on 11 August.

Sources of Information

11.26 For the purpose of its study of the events of 11 August, the IPCC has scrutinised the following materials:

- (a) Documents provided by the Police in respect of police deployment and operation, prior intelligence received, use of police weapons, casualties and arrests on the incident day;
- (b) Footage recorded by the Police pertaining to the operations on 11 August. A total of 14 video clips of 2 hours 30 minutes long were viewed;
- (c) News reports and news footage produced by different television companies, newspapers and media outlets. A total of 213 news articles and 102 video clips of 101 hours long were examined;²⁰
- (d) Photos and footage provided by the public in response to IPCC's appeal;
- (e) MTR Corporation Limited (MTRC) CCTV footage, damage reports and audio recordings. A total of 39 CCTV clips of around 77 hours, damage reports of three MTR stations and 18 audio recordings of about eight minutes were examined; and
- (f) Press statements from the websites of the Information Services Department (*news.gov.hk* and *isd.gov.hk*), the Police (*police.gov.hk*) and MTRC (*www.mtr.com.hk*).

The Events

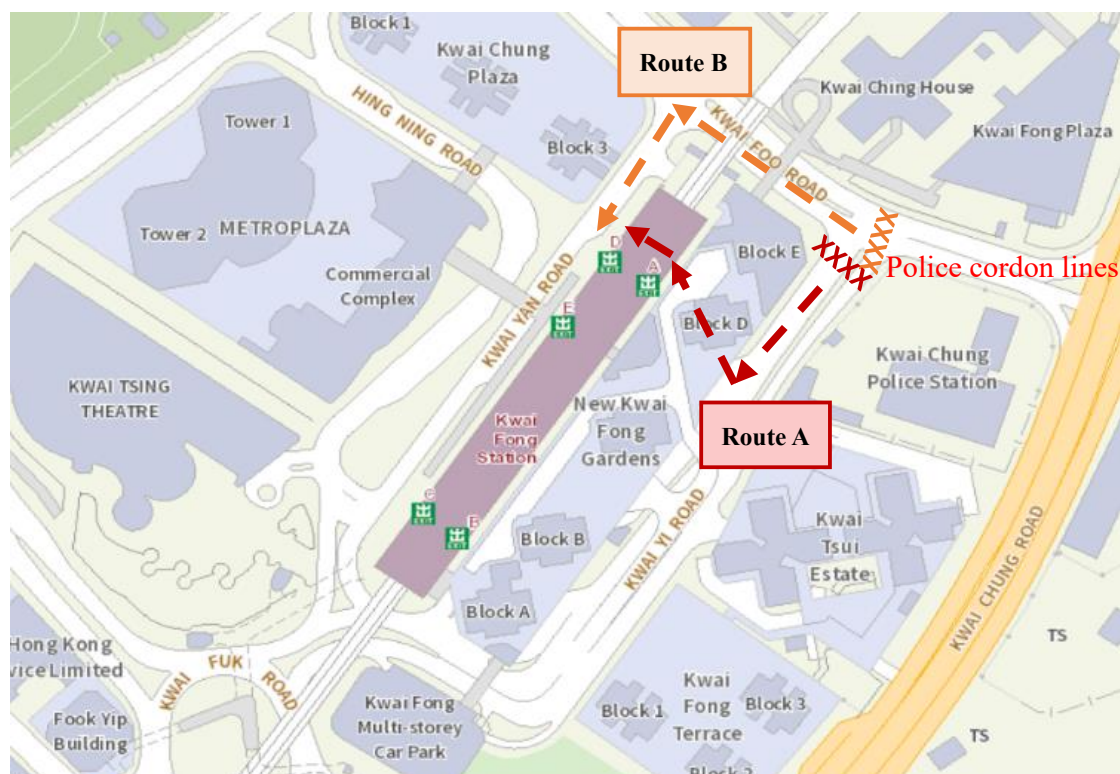
11.27 The events on 11 August leading to Police use of force in Kwai Fong and Tai Koo Stations are analysed in two parts, namely:

- (I) Police firing of tear gas inside Kwai Fong Station; and
- (II) Police use of force and shooting of pepper balls at close-range at protesters inside Tai Koo Station.

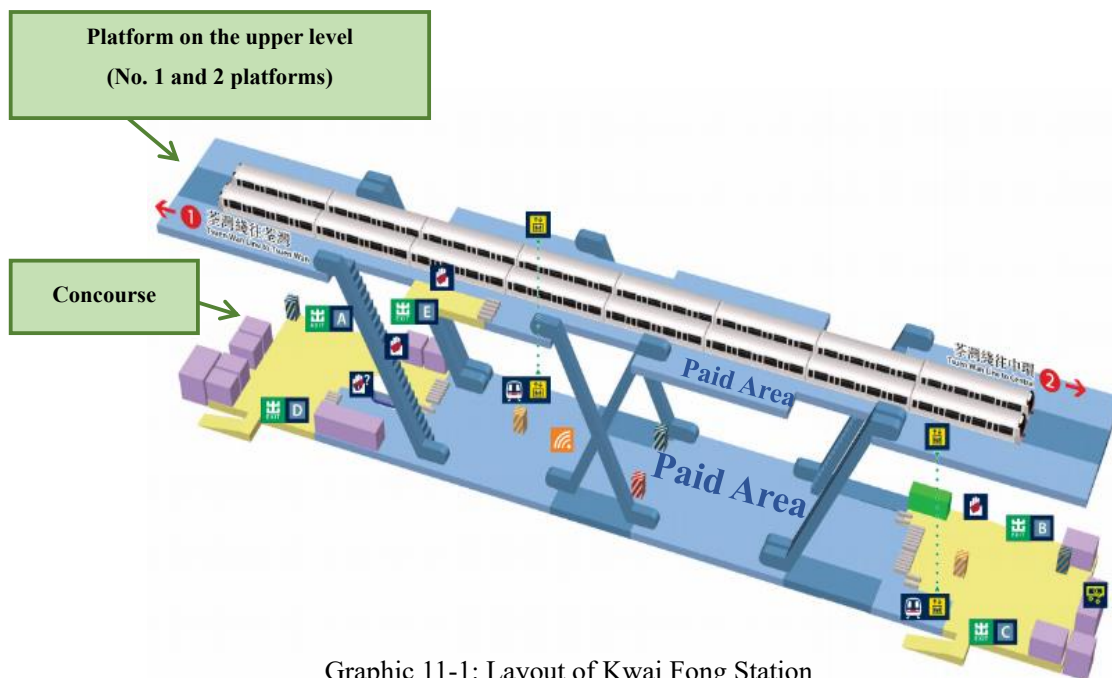
²⁰ This figure includes print media, while the IPCC has also viewed mainstream online media/sources such as HK01, Stand News, Hong Kong Free Press, and CitizenNews.

Part I – Police Firing of Tear Gas inside Kwai Fong Station*Kwai Fong Station*

- Kwai Fong Station, situated in Kwai Tsing District, is surrounded by residential blocks, housing estates and shopping centres (see Graphic 11-1 and Map 11-2). Unlike most other MTR stations which are underground, it is an elevated MTR station on the Tsuen Wan Line with two levels. On the ground level is the main concourse with four exits, Exits A to D respectively at the four corners of the MTR station. Passengers move into the paid area of concourse after the ticket gates. From there, nine escalators connect passengers to the platforms on the upper level on both sides of the MTR tracks. The entire upper level, including the MTR tracks, is covered with a roof but is open at both ends for the trains to enter and leave the MTR station on open tracks. Exit E, on one side of the upper platform, is connected to Metroplaza. In the vicinity of Kwai Fong Station are Kwai Foo Road, Kwai Yan Road and Kwai Yi Road. Kwai Chung Police Station, at the junction of Kwai Chung Road and Kwai Foo Road, is about 300 metres from Kwai Fong Station.



Map 11-2: Kwai Fong Station
(Source of base map: Lands Department)



Graphic 11-1: Layout of Kwai Fong Station
(Source of base graphic: MTRC)

Outside Kwai Chung Police Station in Vicinity of Kwai Fong Station

- Around 20:00, some protesters blocked roads outside Kwai Chung Police Station (source: media reports).
- Around 20:35, while the protesters continued to move barricades to block roads outside Kwai Chung Police Station (source: media report), about 200 protesters were seen heading to Kwai Chung Police Station from Kwai Fong Station (source: HKPF).
- Around 20:45, the Police formed a cordon line outside Kwai Chung Police Station at the junction of Kwai Yi Road and Kwai Foo Road (source: HKPF). Protesters then began to retreat in the direction of Kwai Fong Station (source: live video footage).
- Around 20:50, about 200 protesters were present in the vicinity of Kwai Fong Station, some of them inside the MTR station while some others near Kwai Chung Plaza and Metroplaza. Another group of police officers were seen heading to Kwai Fong Station from Kwai Chung Police Station (see Route A of Map 11-2). When these police officers arrived outside Kwai Fong Station Exit A, several dozens of protesters, mostly dressed in black with helmets and respirators, were seen near the paid area inside Kwai Fong Station, scattered in front of and behind the ticket gates, yelling, flashing laser beams and throwing water bottles at the police officers (source: live video footage).

- Around 20:51, there was station announcement that Kwai Fong Station would be closed due to emergency (source: live video footage) and evacuation of the station was activated at around 20:55 for the safety of passengers and station staff (source: media report and MTRC).²¹
- Around 20:53, protesters near the ticket gates continued to flash laser beams, throw objects, and started to spurt water and discharge fire extinguisher towards police officers outside Exit A. Several protesters outside Exit D were seen using a fire hose to spurt water towards the officers at Exit A (see Image 11-1) (source: media reports and live video footage).



Image 11-1: Protesters used a fire hose to spurt water towards the officers
(Image source: From Stand News Facebook public page)

- Around 20:55, the police officers at Exit A walked over to the unpaid area in the concourse to Exit D on the other side without taking action against the protesters who remained inside the paid area (see Image 11-2). At this point, the police officers stayed at their positions outside Exit D and a stand-off ensued. Some people outside Metroplaza and on the footbridge connecting the shopping centres shone light and laser beams at the police officers who then raised black warning flag indicating “WARNING TEAR SMOKE” in the direction of Kwai Chung Plaza and Metroplaza (source: live video footage).

²¹ It was until around 22:39 that the MTRC announced the temporary closure of Kwai Fong Station upon evacuation of passengers (source: media reports).

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Image 11-2: Protesters stayed inside the paid area of Kwai Fong Station
(Image source: Sing Tao Daily)

- Around 20:57, police officers were seen leaving Kwai Fong Station and heading towards Kwai Chung Police Station. Several dozens of protesters standing near the front door of Metroplaza were seen walking to the direction of Kwai Fong Station Exit D (source: live video footage).
- Around 20:59, some protesters shone blue and green laser beams at the police officers at the cordon line at the junction of Kwai Yi Road and Kwai Foo Road. Black warning flag indicating “WARNING TEAR SMOKE” was displayed outside Kwai Chung Police Station (source: HKPF and live video footage).
- Around 21:02, Police reinforcement arrived at the cordon line outside Kwai Chung Police Station. The police officers then started to advance along Kwai Foo Road in the direction of Kwai Fong Station and fired tear gas to disperse protesters after warning them (see Route B of Map 11-2) (source: HKPF and live video footage).
- Around 21:03, MTRC announced that Tsuen Wan Line trains in both directions would not stop at Kwai Fong Station, but special trains were arranged to pick up passengers at the station (source: media report).
- Around 21:05, the police officers advancing along Kwai Foo Road reached Kwai Yan Road outside Kwai Fong Station Exit D (source: media report and live video footage).

Firing of Tear Gas inside Kwai Fong Station

- Around 21:06, protesters were seen splashing water and discharging fire extinguishers from the paid area near Exit D (source: live video footage). According to the Police, sling shots firing steel ball bearings were also used to attack the police officers (source: HKPF). At this juncture, some police officers entered Exit D and one of them fired one round of tear gas in the direction of the paid area near Exit D and stepped out from the entrance (see Image 11-3 and Graphic 11-2). This had the effect of dispersing some of the protesters, but others stayed and continued to use fire hoses to spurt water from behind the ticket gates. The police officers then resumed their action, re-entering the station, firing two rubber baton rounds at the protesters in the paid area, and dispersing some of them (source: media reports and live video footage).



Image 11-3: Police fired one round of tear gas inside Kwai Fong Station
(Image source: RTHK)



Graphic 11-2: Illustration of Police firing of tear gas inside Kwai Fong Station
 (Source of base graphic: MTRC)

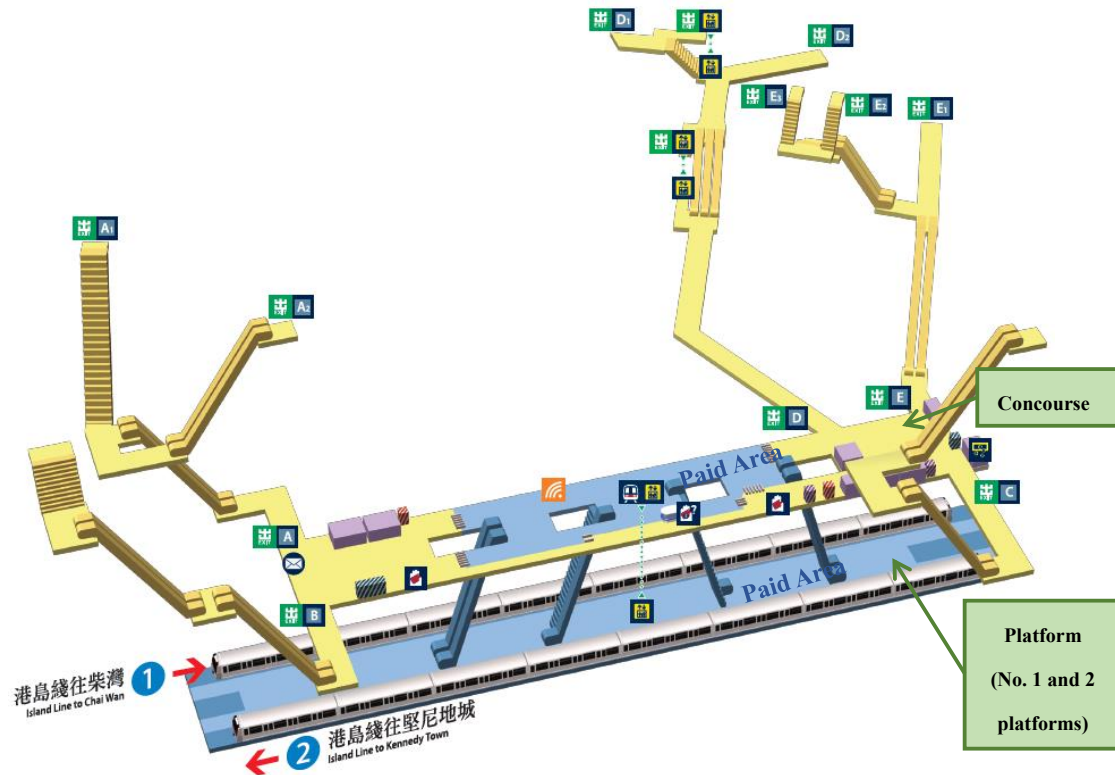
- Around 21:09, protesters dashed up to the upper platform of the MTR station, escaping and dispersing into Metroplaza at Exit E from the upper platform. Some protesters left the scene by trains from the two platforms (see Graphic 11-3). Police officers did not give chase and retreated from Exit D where they remained on guard until around 21:12 (source: media reports and live video footage).



Graphic 11-3: Illustration of the escape routes of protesters
 (Source of base graphic: MTRC)

After Tear Gas Was First Used inside Kwai Fong Station

- Around 21:12, about 20 people were present on the footbridge connecting Metroplaza and Kwai Chung Plaza, some of whom pointed laser beams at the police officers outside Kwai Fong Station Exit D. The police officers outside Exit D left the scene by police vehicles (source: live video footage). According to the Police, around 21:16, a platoon of officers was going to reform with two platoons of officers there to carry out high profile patrol in Kwai Fong (Source: HKPF).
- Around 21:50, protesters gathered again outside Kwai Chung Police Station and shone laser beams at the station. Police raised black warning flag indicating “WARNING TEAR SMOKE” from inside the police station (source: HKPF, media report and live video footage).
- Around 21:54, fireworks were seen discharging near Kwai Chung Police Station (source: HKPF, media report and live video footage).
- Around 22:00, Police fired tear gas near Kwai Chung Police Station and Kwai Fong Station to disperse the protesters (source: media report and live video footage).
- Around 22:35, protesters shone blue and green laser beams to attack officers defending Kwai Chung Police Station (source: HKPF and live video footage).
- Around 22:40, protesters gathering outside Kwai Fong Station blocked roads with rubbish bins and foam boxes (source: live video footage).
- Around 22:55, according to the Police, Kwai Fong Station would resume the MTR service (source: HKPF).
- Around 23:00, protesters again shone laser beams at Kwai Chung Police Station. After giving warnings to the protesters, the Police conducted dispersal action along Kwai Foo Road outside Kwai Chung Police Station and fired tear gas (source: live video footage).

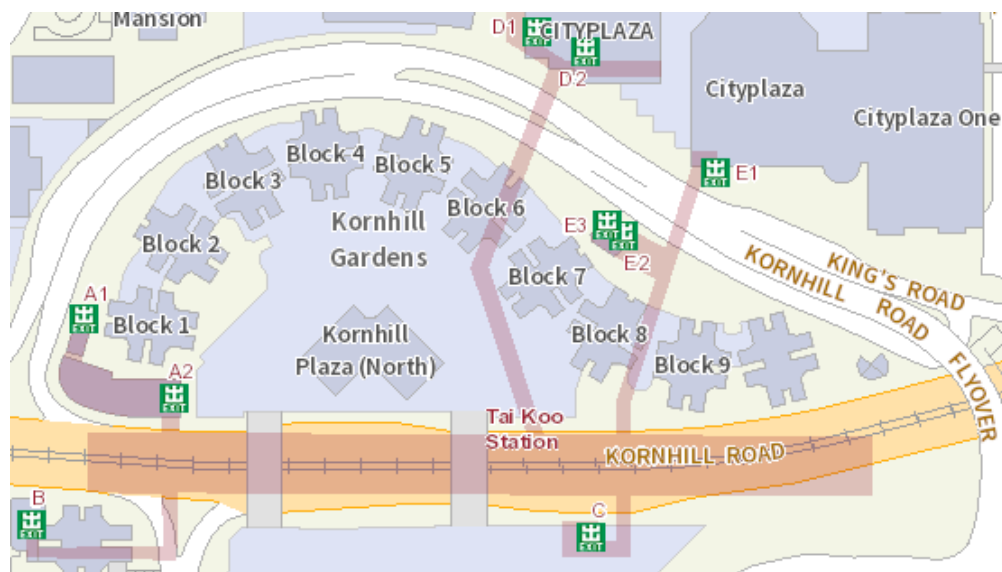
Part II – Police Use of Force and Shooting of Pepper Balls at Close-range at Protesters inside Tai Koo Station*Tai Koo Station*

Graphic 11-4: Layout of Tai Koo Station

(Source of base graphic: MTRC)

- Tai Koo Station is situated in Kornhill and Taikoo Shing. Unlike Kwai Fong Station, Tai Koo Station is an underground MTR station with two levels. The main concourse is on the first level and the train platforms on the second level underground. The MTR station has nine exits, all at ground level (see Graphic 11-4 and Map 11-3).

CHAPTER 11 • INCIDENT DAY – SUNDAY 11 AUGUST 2019
 KWAI FONG STATION AND TAI KOO STATION



Map 11-3: Tai Koo Station

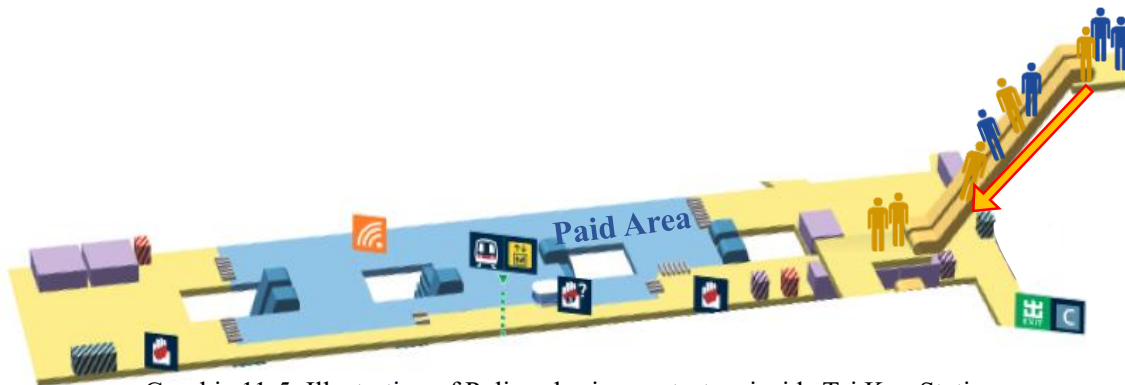
(Source of base map: Lands Department)

- Around 22:30, Police officers took action to disperse protesters who had occupied King's Road near Quarry Bay Station. Protesters on King's Road were seen fleeing in the direction of Tai Koo Station while those behind the ticket gates of Quarry Bay Station were reported to have taken trains to Tai Koo Station (source: media reports and live video footage).
- Around 22:33, according to the Police, about 100 protesters alighted from the train at Tai Koo Station (source: HKPF).
- Around 22:38, 300 protesters in protective gear came out from Exit C of Tai Koo Station and blocked Kornhill Road. A police vehicle passing by was attacked by those protesters with hard objects and sling shots (source: HKPF).
- Around 22:44, about 200 protesters appeared at the westbound lane of Kornhill Road near Exit C of Tai Koo Station. At this juncture, two police vehicles arrived. The protesters on Kornhill Road turned around and rushed towards Exit C of Tai Koo Station (source: live video footage). According to the Police, the officers alighted from the police vehicles to pursue the violent protesters, who immediately fled towards Exit C and threw smoke bombs to evade (source: HKPF). White smoke was seen in the pedestrian area outside Exit C of Tai Koo Station (see Image 11-4). Some news reports stated that the white smoke was from tear gas fired by the Police (source: live video footage and media reports). According to the Police, they did not fire any tear gas (source: HKPF).



Image 11-4: White smoke was seen outside Tai Koo Station when police officers charged in
(Image source: Now TV)

- Around 22:45, police officers chased after protesters and entered Tai Koo Station from Exit C (source: HKPF, media reports and live video footage).
- At Exit C, there are two escalators, one going down to and the other one coming up from the concourse of Tai Koo Station. There is video footage which captured the incident lasting two to three minutes starting from 22:45 when some ten police officers subdued a number of protesters in the area, some right before reaching the two escalators and others coming down the two escalators (see Graphic 11-5). Both escalators came to a halt at the time of the incident (source: HKPF, media reports and live video footage).



Graphic 11-5: Illustration of Police chasing protesters inside Tai Koo Station
(Source of base graphic: MTRC)

- At that time, more than 50 people, most of them wearing helmets, some wearing a respirator or a goggle, and some carrying backpacks and/or umbrellas, tried to get to the escalators to go down to the concourse. About ten police officers chased after them. Some persons carrying cameras also followed behind. Many people were stuck at the spot before reaching the escalators. The police officers tried to capture those people at the rear. Some of the police officers used their batons to subdue a few of them (source: media reports and live video footage).
- A police officer holding a pepper ball launcher once grabbed a male who was wearing a helmet. That male dashed forward into the crowd swarming to reach the escalators. The police officer moved back two to three steps and fired pepper balls from a distance of approximately one to two metres at shoulder level at the escaping crowd. A number of pepper balls seemed to have hit the helmet of one of the people at scene (source: media reports).
- There were struggles between the protesters and the police officers using batons to subdue them (see Images 11-5 and 11-6). During the process, one protester was seen refusing to let go his grip on the handrail of the escalator before he was finally subdued by two to three officers with batons. Some of the police officers chased down the escalators. In the struggle on the escalators, a police officer and some protesters tumbled down (source: live video footage).



Image 11-5: Police chased after protesters on the escalator
(Image source: Now TV)



Image 11-6: Police subdued protesters with batons along the escalator
(Image source: Now TV)



Image 11-7: Protesters were arrested at Exit C of Tai Koo Station
(Image source: HK01)

- According to the Police, 19 persons were arrested at Tai Koo Station (see Image 11-7). Around 23:05, the arrested persons were taken to the police vehicles in the vicinity (source: HKPF and live video footage).
- At a media briefing on 19 August, a Police spokesman said that their initial review revealed that pepper ball projectiles were shot at one to two metres from the targets in Tai Koo Station, which is a safe distance in line with the relevant manufacturer’s safety guidelines (source: media reports).²²

Complaints against Police

11.28 The two events above gave rise to public concern about Police use of tear gas inside MTR station and pepper balls at close-range and at shoulder level. This was mainly from media comments and a number of non-governmental organisations.

11.29 After the incident, Civil Rights Observer and Physicians for Human Rights commented that the use of tear gas in a train station “*violated the safety guidelines by the*

²² HKPF (2019-08-19). Live footage of Police media briefing. Retrieved from <https://www.facebook.com/HongKongPoliceForce/videos/vb.960526577368640/371436143529541/>

supplier”, as “tear gas can only be used in outdoor area or spaces with good ventilation”.²³

11.30 On 12 August, the Director of Amnesty International Hong Kong commented that “pepper ball projectiles were fired within a short range inside a train station ..., sometimes aiming at [the targets’] heads and upper bodies”, and “[a]ny heavy-handed policing approach will only increase tension and provoke hostility, leading to the overall escalation of the situation”.²⁴ There was a view from Civil Rights Observer that the irritant effect of pepper balls could temporarily affect the targets’ eyesight who were moving on the escalators, and that could lead to risks of people falling down the escalators and causing a stampede.²⁵

11.31 MTRC Staff Union criticised the Police use of tear gas inside Kwai Fong Station, without regard to the safety of MTR staff and commuters at the MTR station.²⁶

11.32 Members of the public, in particular residents in the Kwai Fong neighbourhood, also expressed concern about health hazard of tear gas.

11.33 As at 29 February 2020, Police action at various locations on 11 August gave rise to 12 RCs and 22 NCs, of which four RCs and five NCs concern what occurred at Kwai Fong and Tai Koo Stations. All four RCs are related to Police use of tear gas in Kwai Fong on 11 August. Among them, one RC was lodged by a complainant travelling at Kwai Fong Station alleging Police improper use of tear gas inside the station, two RCs were lodged by residents in Kwai Fong complaining of Police improper use of tear gas near Kwai Fong Station in a

²³ Civil Rights Observer (2019-08-11). 室內使用催淚彈可致命 完全違反供應商的安全指引. Retrieved from <https://www.facebook.com/hongkongcro/photos/a.1559419977629436/2376549622583130>
SCMP (2019-08-12). Tear gas fired in Kwai Fong station: Hong Kong police told by MTR Corporation to think of public safety after unprecedented indoor deployment during protest. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3022367/tear-gas-fired-kwai-fong-station-hong-kong-police-told-mtr>

Post Magazine (2019-08-16). The truth about tear gas: how Hong Kong police violated all guidelines for the ‘non-lethal weapon’. Retrieved from <https://www.scmp.com/magazines/post-magazine/long-reads/article/3022942/truth-about-tear-gas-how-hong-kong-police>

²⁴ Amnesty International (2019-08-12). Hong Kong: Police should exercise restraint to avoid escalating violence. Retrieved from <https://www.amnesty.org/en/latest/news/2019/08/hong-kong-police-should-exercise-restraint-avoid-escalating-violence/>

²⁵ RTHK (2019-08-12). 民權觀察形容警員近距離向示威者開槍是將人當活靶發洩. Retrieved from <https://news.rthk.hk/rthk/ch/component/k2/1474112-20190812.htm?sid=O7i114>

HK01 (2019-08-12). 【811 衝突】民權監察：警港鐵站內放催淚彈具致命風險. Retrieved from <https://www.hk01.com/社會新聞/362628/811-衝突-民權監察王浩賢-警港鐵站內放催淚彈具致命風險>
Hong Kong Free Press (2019-08-12). Hong Kong police shoot projectiles at close range in Tai Koo, as protester suffers ruptured eye in TST. Retrieved from <https://www.hongkongfp.com/2019/08/12/hong-kong-police-shoot-projectiles-close-range-tai-koo-protester-suffers-ruptured-eye-tst/>

²⁶ SCMP (2019-08-12). Police defend firing tear gas and pepper balls in Hong Kong MTR stations during clashes with protesters, despite condemnation by residents and rail unions. Retrieved from <https://www.scmp.com/news/hong-kong/law-and-crime/article/3022506/police-defend-operations-hong-kong-mtr-stations-where>

residential area and amidst the residential area in Kwai Fong respectively, and one RC was lodged by a resident in Kwai Fong complaining about officers' impoliteness and improper manner, and failure to give warning before using tear gas.

11.34 Among the 22 NCs, there are four concerning Police use of tear gas inside or in the vicinity of Kwai Fong Station. There is only one NC concerning Police use of tear gas at Tai Koo Station to disperse the protesters going down the escalator.

Police Response

11.35 In response to the events of this day, the Police has made various observations to the IPCC, as set out below:

Firing of Tear Gas in Kwai Fong Station

11.36 Around 20:35, about 200 protesters exited from Kwai Fong Station and proceeded to Kwai Chung Police Station. They gathered outside Kwai Chung Police Station and set up barricades on the road, paralysing the traffic. The number of violent protesters near Kwai Chung Police Station and Kwai Fong Station grew, and they intermittently used "laser guns" to attack police officers at cordon line.

11.37 Around 21:02, police officers conducted sweeping with the use of tear gas along Kwai Yi Road after displaying dispersal warning banners without compliance. The violent protesters pulled back and gathered at Kwai Fong Station where they confronted Police again by discharging sling shots and suspected smoke bombs, hurling fire extinguishers which could explode upon excessive pressure on the compressed gas, and using fire hoses to spray water against police officers. The officers discharged one tear gas round and two rubber baton rounds against the violent protesters.

11.38 The discharge of one tear gas round and two rubber baton rounds against the violent protesters were considered reasonable and justified to create a safe distance and prevent the situation from worsening. The use of force by the Police immediately ceased after the purpose of dispersing the violent protesters had been achieved.

11.39 Despite warnings given, the violent protesters did not disperse but continued their unprovoked attacks, the police officers therefore had to use minimum force necessary to create a safe distance and prevent the situation from worsening.

11.40 To maintain a safe distance with the violent protesters and to avoid close-range combat with the violent protesters, which would inevitably cause more severe injuries to both

parties and possibly other innocent people, such as passers-by and press members. The Police found it necessary to use the minimum force, i.e. tear gas, for dispersal.

11.41 Kwai Fong Station is in fact a semi-open structure with the concourse at the ground floor and the train platform at the upper floor. Such semi-open structure has sufficient ventilation for the tear gas to be blown away reasonably quickly.

11.42 Regarding the use of tear gas in semi-enclosed area, there is no specific provision in Police guidelines.

Shooting Pepper Balls at Close-range and Use of Force in Tai Koo Station

11.43 Around 22:38, some 300 protesters in protective gear came out from Tai Koo Exit C and blocked Kornhill Road. A police convoy passed by and was attacked by the violent protesters with hard objects and sling shots. The officers alighted from the police vehicles to pursue the protesters, who immediately fled towards the entrance of Exit C and threw smoke bombs to evade the Police. Having encountered the resistance and violence from the protesters, the officers used appropriate force to control and effect arrest, including the use of pepper ball launcher. As the protesters ran down the escalator and escaped into the MTR station, the officers arrested a total of 19 protesters at the scene with three “laser guns”, one sling shot with 90 metal pellets (i.e. steel ball bearings). Plenty of protective gear, such as helmets, respirators, masks, goggles, limb guards, gloves were seized at the scene.

11.44 Some units in other law enforcement agencies in Hong Kong, namely the Immigration Department and Correctional Services Department, are also equipped with pepper ball launcher for use in a confined environment. This is a piece of equipment designed to be used in close proximity.

11.45 At the material time, a police convoy passing by Tai Koo Station was proactively attacked by violent protesters with hard objects and sling shots without any provocation. When police officers alighted from the police vehicles to pursue the violent protesters, they fled towards the entrance of Exit C and threw smoke bombs to evade, emitting the smoke outside the Exit C of Tai Koo Station as shown in some pictures and videos of the press. Encountered with violent and unprovoked attacks by protesters, police officers had to use minimum force necessary to control and arrest offenders, including those inside the MTR station.

IPCC Observations

11.46 IPCC notes that by 11 August, many public order events (POEs) involved clashes between the Police and the protesters. In late July, the protesters escalated their level of violence in the protests. Umbrellas, wooden shields, helmet, tear gas masks and other self-made weapons were frequently used. Hurling bricks, other hard objects and petrol bombs at police officers was seen in clashes. On 3 August, some protesters aggressively besieged and violently attacked a number of police officers in Wong Tai Sin, when these officers tried to board a police vehicle. These violent protesters discharged a fire extinguisher at the officers, attacked them with umbrellas and other objects and threw hard objects at them, preventing them to leave the spot. Afterwards, the protesters besieged Wong Tai Sin Police Station and the adjacent Disciplined Services Quarters.

11.47 The protesters not only escalated their use of violence and attacked police stations and other places, they also extended the scale and frequency of protests. On 4 August, they blocked roads in Tseung Kwan O, Kwun Tong, Mei Foo, Wong Tai Sin, Tin Shui Wai and Causeway Bay. On 5 August, the protesters further launched a city-wide strike and uncooperative campaign, resorting to urban guerrilla tactics to block roads at busy traffic locations. Police stations in various districts (including Sham Shui Po, Kwun Tong, Tin Shui Wai, Tuen Mun, Tai Po, Sha Tin, Tsuen Wan, Tseung Kwan O, North Point) were also besieged and attacked. Police stations accessible by MTR were targets of frequent attack by protesters. On this single day, the Police responded with about a thousand rounds of tear gas and arrested 165 protesters. Beginning in late July and early August, there were violent protests almost every day or night. It was in this context that the two incidents at Kwai Fong Station and Tai Koo Station took place.

11.48 On 11 August, protesters staged another series of territory-wide protests at multiple locations along different MTR lines, again using urban guerrilla tactics. They blocked roads at different busy traffic locations and staged protests outside various police stations. They hurled bricks and petrol bombs at police officers and set fires at various spots. On that day, the Police arrested 117 persons and fired 361 rounds of tear gas.

Use of Tear Gas inside Kwai Fong Station

11.49 On 11 August, Kwai Chung Police Station was a target. It was during dispersal action that police officers fired one round of tear gas and two rubber baton rounds at the protesters in Kwai Fong Station. In this regard, the IPCC has the following observations:

- (a) On 13 August, the Office of the United Nations High Commissioner for Human Rights gave its view on the POEs in Hong Kong, noting “*credible evidence of*

*employing less-lethal weapons such as tear gas in ways that are prohibited by international norms and standards. For example, officials can be seen firing tear gas canisters into crowded, enclosed areas and directly at individual protesters on multiple occasions, creating a considerable risk of death or serious injury”.*²⁷ The issue is whether the firing of tear gas inside Kwai Fong Station was necessary and proper under the circumstances.

- (b) The IPCC notes that protesters inside the MTR station spurted water from the fire hose and discharged fire extinguishers in the direction of police officers. According to the Police, they even discharged sling shots and hurled fire extinguishers at the police officers. The police officers fired one round of tear gas and two rubber baton rounds in this direction. The Police explained that the use of tear gas and rubber baton rounds was to create a safe distance and to disperse the protesters. Subsequently, most of them did move up the escalators and leave the scene through Exit E on the upper platform, which was partially open-air. IPCC observes that the use of the tear gas did create a distance and successfully disperse the protesters without the Police resorting to any close-range combat with them or any further use of force that might result in injuries to both parties. The Police did not fire any further rounds as soon as the purpose of dispersing the protesters had been achieved.
- (c) According to the latest Police guidelines on the use of force, police officers have the option to use irritant agent devices, including tear gas, when they encounter active resistance (i.e. physical action to prevent control that might cause injury to oneself or others) and use less-lethal weapons, including rubber baton rounds, in the face of aggressive assault (i.e. physical assault to cause or likely to cause bodily injury). The police officer, when circumstances permit, shall give a warning of the intention to use force and the nature and degree of such force. Persons shall be given every opportunity, wherever practicable, to obey police orders before force is used. The principle governing the use of force is that only the minimum force necessary to achieve the purpose may be used and once that purpose has been achieved, the use of such force shall cease. The force used must be reasonable in the circumstances. It is the officer’s own judgement to determine which level of force he is justified to use and should use in the situation he is faced with. The officer will be held accountable for his own action.

²⁷ Office of the United Nations High Commissioner for Human Rights (2019-08-13). Press briefing note on Hong Kong, China. Retrieved from <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24888>

- (d) According to the Police guidelines, tear gas, although normally incapable of causing permanent injury to general health, can be damaging if it is sufficiently concentrated or where ventilation is poor. In view of the potential fire risk, where projectiles containing tear gas are used in built-up areas, care should be taken to ensure that they do not enter rooms inadvertently. The decision to use tear gas within buildings rests with the senior officer present and that officer will be accountable for the decision. The senior officer must ensure that if tear gas is to be used, the crowd will have an escape route. When encountering with a target who barricades himself in a protected area, room or building, the choice of weapons is important. The risk of fire or exposure of innocent persons to heavy concentration of tear gas must be carefully considered and follow-up action, such as checking every room, must be immediately taken.
- (e) It is printed on the tear gas canister “USE ONLY OUTDOORS. MAY START FIRE” (see Images 11-8 and 11-9 below). Aside from the warning printed on the canister, the manufacturer’s product safety information specifies a precautionary statement “Use only outdoors or in a well-ventilated area” (see Image 11-10 below).²⁸

²⁸ Nonlethal Technologies (2016-06-23). Safety Data Sheet acc. to OSHA HCS (29 CFR 1910.1200). Retrieved from <http://www.nonlethaltechnologies.com/pdf/SDS/SDS-MP-6M5-CS.pdf>

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Image 11-8: a tear gas canister found inside Kwai Fong Station on 11 August night after Police retreated
(Image source: HK01)



Image 11-9: Warnings shown on a tear gas canister of the same model captured by the media on 28 July in Sheung Wan
(Image source: HK01)



Safety Data Sheet
 acc. to OSHA HCS (29 CFR 1910.1200)

Printing date: 06/23/2016

Revision: 06/23/2016

Trade name: **CS Smoke Projectile**

(Cont'd. of page 1)

H317 May cause an allergic skin reaction.
 H335 May cause respiratory irritation.

Precautionary statements:

P210 Keep away from heat/sparks/open flames/hot surfaces. No smoking.
 P250 Do not subject to grinding/shock/friction.
 P260 Do not breathe dust.
 P284 In case of inadequate ventilation wear respiratory protection.
 P264 Wash thoroughly after handling.
 P280 Wear protective gloves/protective clothing/eye protection/face protection.
 P270 Do not eat, drink or smoke when using this product.
P271 Use only outdoors or in a well-ventilated area.
 P272 Contaminated work clothing must not be allowed out of the workplace.
 P305+P351+P338 If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.
 P373 DO NOT fight fire when fire reaches explosives.
 P370+P380 In case of fire: Evacuate area.
 P302+P352 IF ON SKIN: Wash with plenty of water.
 P304+P340 IF INHALED: Remove person to fresh air and keep comfortable for breathing.
 P342+P311 If experiencing respiratory symptoms: Call a POISON CENTER/doctor.
 P372 Explosion risk in case of fire.
 P312 Call a POISON CENTER/doctor if you feel unwell.
 P333+P313 If skin irritation or rash occurs: Get medical advice/attention.
 P337+P313 If eye irritation persists: Get medical advice/attention.
 P301+P310 IF SWALLOWED: Immediately call a POISON CENTER/ doctor.
 P330 Rinse mouth.
 P361+P364 Take off immediately all contaminated clothing and wash it before reuse.
 P401 Store in accordance with local/regional/national/international regulations.
 P405 Store locked up.
 P403 Store in a well-ventilated place.
 P501 Dispose of contents/container in accordance with local/regional/national/international regulations.

Other hazards There are no other hazards not otherwise classified that have been identified.

Explosive Product Notice
 PREVENTION OF ACCIDENTS IN THE USE OF EXPLOSIVES - The prevention of accidents in the use of explosives is a result of careful planning and observance of the best known practices. The explosives user must remember that he is dealing with a powerful force and that various devices and methods have been developed to assist him in directing this force. He should realize that this force, if misdirected, may either kill or injure both him and his fellow workers.

WARNING - All explosives are dangerous and must be carefully handled and used following approved safety procedures either by or under the direction of competent, experienced persons in accordance with all applicable federal, state, and local laws, regulations, or ordinances. If you have any questions or doubts as to how to use any explosive product, DO NOT USE IT before consulting with your supervisor, or the manufacturer, if you do not have a supervisor. If your supervisor has any questions or doubts, he should consult the manufacturer before use.

(Cont'd. on page 3)

Image 11-10: Extract information of the product safety data sheet
 (Image source: Nonlethal Technologies)

- (f) Regarding fire risk, available product information from the website of the manufacturer reveals that there is a warning “Pyrotechnic devices may cause fires” (see Image 11-11 below).



TEL: +1 724-479-5100
 FAX: +1 724-479-5105
 www.nonlethaltechnologies.com
 sales@nonlethaltechnologies.com

MP-6M5-CS - MULTI-SMOKE PROJECTILE (CS) - 37/38mm

DESCRIPTION

The MP-6M5-CS Multi-Smoke Projectile contains 5 separate submunitions that release a CS Smoke agent. The multiple submunitions provide a wide area of coverage for quick dispersal and control of crowds. The submunitions are launched up to 80 meters and release smoke for approximately 20 seconds each.



SPECIFICATIONS

Type	Projectile, Multi-Smoke
Discharge	CS Irritant Smoke
Application	Riot and Crowd Control
Projectiles	5, Aluminum Cased
Projectile Weight	27 grams
Emission Ports	2 per submunition
Discharge Time	20 ± 5 seconds
Cartridge Material	Aluminum
Length Overall	150 mm
Diameter	38 mm
Overall Weight	225 grams
Chemical Weight	94 grams
Net Irritant Agent	26 grams
Maximum Range	80 meters
Waterproof	Lacquer Coated Primer and Paint Sealed Top
Launched With	37mm / 38mm Riot Launchers, and 40 x 46mm Grenade Launchers



SHIPPING INFORMATION

UN Number	UN 0301
Shipping Name	Ammunition, Tear-Producing
Hazard Class	1.4G (6.1, 8)
Quantity Per Package	60 Cartridges
Packaging	Metal 1A2 UN/DoT Approved Pail w/Lever Lock Lid and Carry Handle

WARNING

Pyrotechnic devices may cause fires. Product should only be used outdoors. Do not fire directly at personnel, or serious injury or death may occur.

NonLethal Technologies, Inc. 9419 Rt 286 Hwy West Homer City, PA 15748 USA
All specifications are average and are subject to change without notice NOVEMBER 2018

Image 11-11: Extract information of the product data sheet of tear gas projectile
 (Image source: Nonlethal Technologies)

- (g) Based on the information available from the website of the tear gas manufacturer, ventilation, which is pertinent to factors like fire risk and the speed at which tear gas dissipates in an environment, appears to be the essence of the safety precautions concerning the use of tear gas.
- (h) The Police explained that Kwai Fong Station is a semi-open structure with the concourse and multiple entrances on the ground floor. It has sufficient ventilation to allow the tear gas to be blown away reasonably quickly. The IPCC understands that some members of the public had concern about the potential health hazard caused by firing of tear gas by the Police inside the station. In this regard, the IPCC notes that the ventilation of the concourse area of Kwai Fong Station is aided by the four exits on the ground level and openings for the escalators that go up to the upper level which is almost an open space at both ends of the MTR track. The police officer fired that round of tear gas near Exits A and D, which would make for faster dissipation of the tear gas. The incident took place around 21:06 on 11 August, which was a Sunday. From a footage that captured the incident, it can be seen that not many people other than the protesters were inside the MTR station. In fact, MTRC had activated evacuation of Kwai Fong Station around 20:55. The risk of exposing innocent persons to heavy concentration of tear gas was not high. Though it could not be ruled out that some innocent persons might have been affected, when there was lead time for passengers and people at the station to leave and MTR staff remained on duty there.
- (i) In respect of Police guidelines on the use of tear gas, IPCC observes that the guidelines are not clear as to whether a police officer can use tear gas at a place other than outdoors and how an officer, and the senior officer if present, should assess the physical environment and the circumstances for using tear gas. This will be addressed in the Recommendations.
- (j) After the incident, the concern of MTR staff and the general public is understandable. The issue of health effect of chemical irritants in tear gas is addressed in Chapter 6: Police Use of Force in Public Order Policing. It is noted that the effects of chemical irritants when used appropriately are normally transient, lasting up to approximately three hours. However, there is scarce literature on the long-term or side-effect of tear gas on health and life.²⁹ In view of the possible unintended effect of tear gas on innocent parties, such as the frontline staff at the MTR station on 11 August and residents in a densely populated area like Kwai Fong,

²⁹ EYY Chan et. al. (2019-10-14). “Use of tear gas for crowd control in Hong Kong”, *The Lancet*. Retrieved from [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)32326-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)32326-8/fulltext)

the Police use of tear gas in densely populated areas and MTR stations, especially given the urban guerrillas tactics of the protesters, will be addressed in the Recommendations.

Use of Force and Pepper Balls at Close-range inside Tai Koo Station

11.50 The event started with about 300 protesters blocking Kornhill Road. According to media reports, some protesters took the MTR to flee from Police dispersal action in Quarry Bay to Kornhill Road. According to the Police, the violent protesters attacked a police vehicle with sling shots and other hard objects when it drove past the location. In response to the violence of the protesters, the police officers alighted from the police vehicle to take arrest action. Immediately, the protesters fled into Tai Koo Station via Exit C. During the chase and arrest action at the escalators inside the MTR station, batons and pepper balls were used.

11.51 After the incident, Tai Koo Station users, MTRC Staff Union, human rights organisations and the media raised concern over Police use of force, in particular using pepper ball launcher at close-range in the MTR station. In this connection, IPCC has the following observations:

- (a) According to Police, the police officers had encountered resistance and violence from the protesters. Under these circumstances, it is the Police view that the officers had to use appropriate force to control and effect arrest. From a video footage capturing the incident, it is seen that some protesters put up struggle when the police officers tried to arrest them.
- (b) According to the latest Police guidelines on the use of force, the appropriate level of force that can be used depends on the level of resistance put up by the subject. When an officer encounters active resistance (i.e. physical action to prevent control that might cause injury to oneself or others), the officer can use pepper ball. In the face of aggressive assault (i.e. physical assault to cause or likely to cause bodily injury), the use of less-lethal weapons, including baton, is an option. To control a subject effectively, the officer is justified to use a level of force greater than the resistance of the subject.
- (c) Whether the use of pepper ball launcher and baton was appropriate depended on the violence met by the officers concerned and the degree of resistance encountered upon arrest. A finer question, however, is whether pepper ball launcher can be used in close-range and at shoulder level.
- (d) Pepper balls, containing powdery pepper substance, are launched by compressed

gas instead of ignition of gun powder. These balls are in the size of a playing marble and would burst into a powder on impact, producing an effect similar to pepper spray. According to the Police, pepper ball launcher can be used in close-range, and is designed to be used in close proximity. Pepper balls are non-penetrating and will turn into a powdery smoke when hitting a surface, producing irritant effect to assist dispersal of a menacing crowd. At a media briefing on 19 August, a Police spokesman said that their initial review revealed that pepper balls were shot at one to two metres from the targets in Tai Koo Station, which is a safe distance in line with the relevant manufacturer's safety guidelines.³⁰

- (e) In the demonstration given by the Police to IPCC Members at Police Tactical Unit (PTU) Headquarters, pepper balls were shot at the torso of a PTU officer at a close distance of about 1.5 metres. The PTU officer, who only wore PTU summer uniform, experienced some discomfort but sustained only minor redness on his skin.
- (f) According to the “United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (Advance Edited Version)”, “*kinetic impact projectiles should not be targeted against the heads, face, or neck*”.³¹ Available information from the website of a manufacturer of pepper ball launcher also shows in its user manual the important warning “DANGER: Never aim at the face, eyes, ears, throat or spine”.³² As to whether pepper balls should not be aimed at shoulder level or above, IPCC notices that the Police does not have any clear guidelines on this and the general instruction is that only the torso should be aimed at. Although a pepper ball does not cause any injury if it hits the torso or the hands or feet, it might cause serious injury if it hits the eyes or other vulnerable parts on the face. In the incident, the police officer launched pepper balls behind the protesters.
- (g) It can be seen from the footage that the protesters whom the police officer aimed at wore helmets (a number of pepper balls apparently hit one of the protesters' helmet) and some of them had goggles covering their eyes. Though serious injury was not likely caused to them, the police officer should not have aimed at the protester's head according to international guidelines. As to the absence of

³⁰ HKPF (2019-08-19). Live footage of Police media briefing. Retrieved from <https://www.facebook.com/HongKongPoliceForce/videos/vb.960526577368640/371436143529541/>

³¹ Office of the United Nations High Commissioner for Human Rights (2020). United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (Advance Edited Version), paragraph 7.5.8. Retrieved from https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf

³² PepperBall (2016). Custom SX/TX PepperBall User Manual. Retrieved from http://www.pepperball.com/wp-content/uploads/2018/12/SX_TX-Manual_2016.pdf

Police guidelines forbidding officers from aiming pepper balls above shoulder level, this will be addressed in the Recommendations.

- (h) In the arrest action on the escalator, a police officer and a protester tumbled down the escalator. The scene at the escalator was chaotic. As to whether the police officers should chase the protesters down the escalators is a judgement to be made by the police officers at the scene. IPCC notes that the protesters made use of the MTR lines in their urban guerrilla tactics to go to different places to block roads and whenever the Police took action against them, they would flee into the MTR stations to evade arrest, perhaps hoping that the Police would stop pursuing them once they were inside. MTR stations then became safe havens for the protesters. As the protests progressed, police officers would follow into MTR stations to make arrest. The Police has since changed their operational plans to anticipate the protesters entering MTR stations for escape or refuge. In this regard, the Police should give clear instructions to advise police officers on the action they should or should not take in different operational situations and indoor public space such as MTR stations. This will be addressed in the Recommendations.

11.52 The IPCC notes the Police response set out in paragraphs 11.36 – 11.42 in relation to the firing of tear gas at Kwai Fong Station and these will be fully taken into account when the IPCC considers the RCs now under investigation by CAPO.

Recommendations by the IPCC under Section 8(1)(c) of the IPCC Ordinance

11.53 The above two instances of use of force by the Police both took place inside an MTR station. The protesters adopted urban guerrilla tactics utilising the MTR network to access different locations across the city and blocked major traffic locations or caused damage to public infrastructure and transport facilities and fled into MTR stations to evade arrest by the Police. In this light, dispersal action by the Police was inevitable, and therefore use of force, including tear gas and pepper balls, would follow inside or in the vicinity of MTR stations. These are often crowded and usually located in close proximity to residential or commercial areas, thus potentially affecting innocent passers-by or occupiers of nearby premises. In these circumstances, Police action naturally would give rise to public complaints.

11.54 The IPCC has observed that since these events and those of 31 August, the Police has refined their strategy by proactively securing stations likely to be used as exits or refuge, and co-ordinating with the MTR Operating Department to redirect trains as necessary. This has prevented the recurrence of similar incidents. As observed above, the MTR is a key device used by protesters in staging protests. To avoid collateral damage to innocent bystanders, the IPCC welcomes continuing efforts by the Police to work closely with the MTR to make the

MTR system safe and to prevent its use to facilitate violent unlawful protest.

11.55 Another area of improvement is to achieve better communications of Police action in or near MTR stations to the general public and passengers so that they may take early precautions. For example, for Police action where tear gas is most likely to be used, the Police Public Relations Branch should send out a general cell phone SMS, as it has done in relation to large-scale POEs. Such communications could be accompanied by information on the precautions to be taken, such as closing windows, using wet cloth to seal doors and windows. The MTRC should in coordination broadcast similar messages for trains making their way to areas of conflict, warning passengers in advance. The local Police Community Relations network together with Home Affairs Department should devise a quick warning system to property managers and local Mutual Aid Committees to advise residents to take early precaution and avoid places where conflict is taking place.

11.56 While the Police considers that the use of tear gas inside Kwai Fong Station and firing of pepper balls inside Tai Koo Station are justified, these two events clearly indicate that the urban setting and circumstances at scenes of protests are diverse and complex. Police guidelines and training for crowd management, arrests and use of force, in particular the Police tactics in pursuing protesters into MTR stations or other premises, and the choice of using tear gas and less-lethal projectiles in non-outdoor setting should be reviewed. The Police has to strike a balance between operational effectiveness and protection of innocent citizens at the scene of action.

11.57 The IPCC is of the view that there are lessons to be learnt from the events that took place inside Kwai Fong and Tai Koo Stations on 11 August. The Police management should conduct the following reviews:

- (a) Review the operational plans for occasion of POEs involving breach of peace and violent acts of protesters, in particular the strategies, gear and weapons for officers to quell disorder;
- (b) Enhance the provisions and guidelines on the use of tear gas in the urban populated setting of Hong Kong, in particular giving clear guidelines on the factors police officers should take into account when making assessment on the physical environment, degree of ventilation and the circumstances in considering the use of tear gas, making reference to international standards and manufacturers' rules;
- (c) Devise clear guidelines on the use of pepper ball launcher, including the suitable range and target area of the body, and take into consideration of manufacturers' safety guidelines and warnings on under what circumstances pepper ball launchers should or should not be used;
- (d) Devise scenario-based practical training for officers on the use of tear gas, pepper

- ball launchers and other police weapons, including periodic accreditation of officers on the use of force in handling protests;
- (e) Devise scenario-based exercises in the training of officers on tactics to be used in handling POEs in different urban settings, in particular MTR stations and enclosed-areas with many people;
 - (f) Delineate the role of command and frontline officers on their accountability in the use of force in different scenarios;
 - (g) Devise means to enhance communications with the public on the intention to use force and related precautionary measures; and
 - (h) Strengthen and refine the relevant protocols, guidelines and training manuals for clearer advice to officers and the public.

11.58 The above recommendations should be read in conjunction with the IPCC's recommendations in Chapter 6: Police Use of Force in Public Order Policing.