

LCQ19: Possession or use of caltrops for illegal purpose may contravene legislative provisions

Following is a question by the Hon Andrew Wan Siu-kin and a written reply by the Acting Secretary for Security, Mr Sonny Au, in the Legislative Council today (January 23):

Question:

It has been reported that some drivers have recently found a number of metal nails commonly known as "caltrops" or "crow's feet" on the roads in the vicinity of Tsuen Wan and Sham Tseng. A number of vehicles had a blowout after running over such metal nails. Some members of the transport trade have pointed out that vehicles may lose control due to blowouts, which may subsequently cause traffic accidents. In this connection, will the Government inform this Council:

(1) whether the Police have so far made any arrest in relation to the aforesaid incidents, and whether the Police will step up its efforts in monitoring and patrolling the roads concerned;

(2) of the legislation violated by the act of placing sharp object(s) on roads; the number of persons who were prosecuted for that in the past five years; and

(3) whether "caltrop" is one type of "prohibited weapons" the possession of which is prohibited under the Weapons Ordinance (Cap 217); if so, of the number of persons prosecuted in the past five years for possession of "caltrops"; if not, whether any legislation is currently in place to regulate the possession, use and import of caltrops; if not, whether it will consider enacting such legislation?

Reply:

President,

Placing sharp object(s) on roads resulting in bodily harm to other persons or damage to property is a serious offence. Having consulted the Transport and Housing Bureau, a reply to all parts of the question is provided as follows:

(1) Regarding the suspected "caltrops" recently found on Tuen Mun Road and Castle Peak Road, the Police have so far received five reports and collected eight "caltrops" from the road sections concerned. These cases are classified as criminal damage and are now under investigation by the District Crime Squad of Tsuen Wan District. No person has been arrested so far. On the other

hand, the Police have enhanced patrol to the above road sections to protect the safety of road users. For the time being, no more similar metal nails have been found by the Police.

(2) Placing sharp object(s) on roads may cause damage to passing vehicles, or even endanger driving safety and cause casualties. Such acts may be liable to the offence of criminal damage under the Crimes Ordinance (Cap 200), the offences of assault occasioning actual bodily harm and wounding with intent to do grievous bodily harm under the Offences against the Person Ordinance (Cap 212). If death is caused by the incident, it may even be liable to murder or related offences.

As regards figures of prosecution relating to the placing of sharp object(s) on roads, the Police do not keep such figures.

(3) Under section 4 of the Weapons Ordinance (Cap 217), "any person who has possession of any prohibited weapon commits an offence and is liable to a fine of \$10,000 and to imprisonment for 3 years". "Prohibited weapon" means any weapon specified in the Schedule to the Weapons Ordinance, i.e. Chinese-style throwing dart, gravity knife, gravity-operated steel baton, knuckleduster whether spiked or not and with or without blade, Chinese-style fighting iron, spring-loaded steel baton, any knife the blade of which is exposed by a spring or other mechanical or electric device, and any bladed or pointed weapon designed to be used in a fashion whereby the handle is held in a clenched fist and the blade or point protrudes between the fingers of the fist. "Caltrop" is not in the Schedule.

Nevertheless, depending on the actual circumstances of the case and the evidence obtained, possession and/or use of "caltrop" may contravene other existing legislation.

Under the Summary Offences Ordinance (Cap 228), any person who has in his possession any instrument fit for unlawful purposes, with intent to use the same for unlawful purposes, shall be liable to a fine of \$5,000 or to imprisonment for 2 years. In addition, under the Public Order Ordinance (Cap 245), any person who, without lawful authority or reasonable excuse, has with him in any public place any offensive weapon shall be guilty of an offence and liable to imprisonment.

Under the Crimes Ordinance (Cap 200), a person who without lawful excuse destroys or damages any property belonging to another shall be liable to imprisonment for 10 years. Furthermore, under the Offences against the Person Ordinance (Cap 212), assault occasioning actual bodily harm shall be liable to imprisonment for 3 years, and wounding with intent to do grievous bodily harm shall even be liable to imprisonment for life.

As mentioned above, possession and/or use of "caltrop" for illegal purpose may contravene a number of existing legislative provisions. The existing legislation is adequate in regulating and penalising such acts. As such, there is no need to enact laws against "caltrop".