



LAPORAN SIASATAN AWAM

KE ATAS
INSIDEN SEMASA
DAN SELEPAS
PERHIMPUNAN AWAM
PADA 28 APRIL 2012

REPORT OF PUBLIC INQUIRY

INTO THE
INCIDENTS DURING AND AFTER
THE PUBLIC ASSEMBLY
OF 28 APRIL 2012

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Chapter 1

INTRODUCTION

- 1.1 On 9 July 2011, a public assembly was held in Kuala Lumpur to show support for the demands made by the Coalition for Clean and Fair Elections (“BERSIH 2.0”)¹ for free and fair elections.² On 15 August 2011, the Prime Minister of Malaysia, The Honourable Datuk Seri Najib Tun Razak announced that the Government would set up a Parliamentary Select Committee on Electoral Reform, in response to allegations of manipulation in the electoral system in the country and the call by BERSIH 2.0 and various other parties for free and fair elections.
- 1.2 Subsequently, the Malaysian Government set up the Parliamentary Select Committee on Electoral Reform (PSC) on 2 October 2011. In early April 2012, the PSC released a report with 22 recommendations to improve the electoral system. The report was received and passed by the Dewan Rakyat (House of Representatives) on 3 April 2012.
- 1.3 On 4 April 2012, BERSIH 2.0 expressed its dissatisfaction with the report and said its eight demands had not been fully addressed by the PSC. BERSIH 2.0 announced that it was organising another rally, called ‘Duduk Bantah’, on 28 April 2012 from 2.00–4.00 pm at various locations in the country including Dataran Merdeka, Kuala Lumpur. According to BERSIH 2.0, the rally was intended to create and increase the awareness among the public of the importance of electoral reform and to urge the Government to implement the reform before the 13th General Elections.
- 1.4 On 27 April, the police issued a press statement that it had obtained an *ex parte* court order dated 26 April under section 98 of the Criminal Procedure Code from the Kuala Lumpur Magistrate Court prohibiting any assembly and the public from attending, gathering or participating in any assembly at Dataran Merdeka from 28 April to 1 May 2012. Subsequently, the Home Ministry and Dewan Bandaraya Kuala Lumpur (DBKL) offered alternative venues such as Merdeka Stadium, Titiwangsa and Bukit Jalil Stadium but these were rejected by the organiser on the ground of insufficiency of time for the required changes to be made.

¹ The Coalition for Clean and Fair Elections is a coalition of 82 non-government organisations (NGOs) and civil societies, which seeks to reform the current electoral system in Malaysia to ensure free, clean and fair elections. It was officially formed on 23 November 2006: www.BERSIH.org.

² Subsequent to the public assembly of 9 July 2011, the Human Rights Commission of Malaysia conducted a public inquiry to investigate into allegations of infringement of human rights prior to and during the assembly: see the *Report of the Public Inquiry into the Infringement of Human Rights including the Use of Excessive Force Prior to and During the Assembly on 9 July 2011*.

- 1.5 However, it was reported in the media³ that the police would allow the public to assemble at the 6 locations announced by BERSIH 2.0 on condition that no procession was permitted and no gatherings were to take place in Dataran Merdeka. The police then blocked several roads in the city and Dataran Merdeka was cordoned off with barricades and closely guarded. Nevertheless, the assembly proceeded on 28 April 2012 and it was reported that several untoward incidents and alleged human rights violations took place especially after 3.00 pm.
- 1.6 It is noted that the BERSIH rally – ‘Duduk Bantah’ – was also held in other cities including Ipoh, Penang, Kuantan, Johor Bahru, Seremban, Melaka, Kota Kinabalu, Kuching, Miri dan Sibul. It was also reported that similar rallies were held in 35 countries known as Global BERSIH in support of BERSIH 2.0’s call for electoral reform. All those rallies proceeded without any untoward incidents except the rally in Kuala Lumpur.
- 1.7 Subsequent to the rally, the Human Rights Commission of Malaysia (“the Commission”) received 16 complaints from members of public and a memorandum alleging human rights violations especially on the use of disproportionate or unwarranted force against the participants of the rally and members of media and urging the Commission to conduct a public inquiry. Pursuant thereto, on 3 May 2012, the Commission called upon members of public, media and the relevant authorities to submit information, documents and evidence for its investigation and consideration (**see Annex 1**).
- 1.8 Meanwhile, on 9 May 2012, the Government announced the formation of an Independent Panel headed by former Inspector-General of Police, Tun Mohammed Haniff Omar, to investigate into the incidents that occurred during the public assembly on 28 April 2012.
- 1.9 Although it had decided to await the release of the Independent Panel’s terms of reference before making any decision, the Commission announced on 21 May 2012 its decision to hold a public inquiry into the allegations of human rights violations during and after the public assembly of 28 April 2012 (**see Annex 2**). The Commission’s decision was made based on the reports of its monitoring team and after serious consideration of the complaints, reports and memorandum from members of public, human rights and professional groups and other members of society.
- 1.10 The Commission in the same statement above, invited the public, media and other organisations to come forward as witnesses by giving statements relating to any acts of infringement of human rights on 28 April 2012 that might assist the Commission in its Public Inquiry (**see Annex 2**).

³ Malaysian Insider, 27 April 2012

- 1.11 A letter was sent to the Royal Malaysian Police (PDRM) to inform them of the Commission's decision and to seek their co-operation in providing any evidence relating to the assembly including a list of the personnel deployed during the assembly in Kuala Lumpur on 28 April 2012 (**see Annex 3**).
- 1.12 In response to the statement and letters sent, 109 names were submitted by the civil society organisations and 59 names by the PRDM as possible witnesses for the Public Inquiry.
- 1.13 The terms of reference of the Public Inquiry are as follows:
- i. To determine whether there were any violations of the human rights of any person or party during and after the public assembly on 28 April 2012;
 - ii. If violations of human rights did occur, to determine:
 - a. How such violations came about;
 - b. What administrative directives and procedures, or arrangements contributed to such violations; and
 - c. Which person or agency was responsible for such violations.
 - iii. To recommend measures to be taken to ensure that such violations do not recur.
- 1.14 The Commission's power to conduct the inquiry is pursuant to section 12 of the Human Rights Commission of Malaysia Act 1999 (Act 597) which reads:
- (1) The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, inquire into allegation of the infringement of the human rights of such person or group of persons.
 - (2) The Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which-
 - a. is the subject matter of any proceedings pending in any court, including any appeals; or
 - b. has been finally determined by any court.
 - (3) If the Commission inquires into an allegation under subsection 12(1) and during the pendency of such inquiry the allegation becomes the subject matter of any proceedings in any court, the Commission shall immediately cease to do the inquiry.
- 1.15 The powers relating to inquiries under the Act are provided under section 14, which states:
- (1) The Commission shall, for the purposes of an inquiry under this Act, have the power-

- a. to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;
- b. to require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorized in that behalf by the Commission an oath or affirmation to every such witness;
- c. to summon any person residing in Malaysia to attend any meeting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;
- d. to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings; and
- e. to admit or exclude the public from such inquiry or any part thereof.

- (2) Notwithstanding paragraph (1)(c), where a person summoned is a person under detention under any other written law, such summons shall be issued in accordance with the laws applicable in relation to the place of detention.

1.16 A Panel for the purpose of the Inquiry was formed comprising three members of the Commission:

- Datuk Dr. Khaw Lake Tee (Chairperson)
- Professor Emeritus Dato' Dr. Mahmood Zuhdi bin Hj Abd Majid (member)
- Mr. Detta Samen (member)

1.17 The Panel then formed a Secretariat to assist in the Inquiry comprising the following officers from the Commission:

Secretariat	Presenting Officers
• Mr. Simon Karunagaram • Mr. Shahizad Sulaiman • Ms. Yustina Ishak • Mr. Helmi Fendy Mohammad • Ms. Norashikin Hamzah • Mr. Ahmad Zaidi Baharuddin • Ms. Nurulhidayati Masdim • Ms. Nur Hariza Abd Aziz • Mr. Roslan Mohd Ali	• Ms. Intan Farida Adnan • Ms. Nur Syamimi • Mr. Ameer Izyanif • Mr. Shahizad Sulaiman • Ms. Lau Sor Pian

- 1.18 The Panel would like to reiterate that the scope of the Inquiry was restricted to issues of violations of human rights during and after the assembly of 28 April. Hence, unless and to the extent they were related to the issues within the terms of reference, the Panel did not inquire into matters such as whether there was any basis for the organisation of the assembly; the composition and objectives of those who organised or participated in the assembly; who or what was responsible for the turn of events at or about 3.00 pm that day or their motives for doing so; or the decisions and actions taken by the authorities and why.

An Assembly after the Enforcement of the Peaceful Assembly Act 2012 (PAA 2012)

- 1.19 It is observed that the rally on 28 April 2012 was the first public assembly to be held after the enforcement of the Peaceful Assembly Act 2012 on 23 April 2012.⁴

The PAA 2012 was enacted with the following objectives as stated under section 2:

- (a) so far as it is appropriate to do so, that all citizens have the right to organise assemblies or to participate in assemblies, peaceably and without arms; and
 - (b) that the exercise of the right to organise assemblies or to participate in assemblies, peaceably and without arms, is subject only to restrictions deemed necessary or expedient in a democratic society in the interest of the security of the Federation or any part thereof or public order, including the protection of the rights and freedoms of other persons.
- 1.20 Apart from, among others, facilitating public assemblies, the PAA 2012 has also replaced section 27 of Police Act 1967, the effect of which is to render it no longer necessary or required for a permit to be obtained from the police for any public assembly. Instead, under the PAA 2012, an organiser of a public assembly need only notify the officer in charge of the police district (OCPD) 10 days before the intended assembly. The OCPD will respond to the notification within five days, outlining such restrictions and conditions as may be imposed. The PAA 2012 also places upon the police the responsibility to ensure the orderly conduct of a peaceful assembly.
- 1.21 During the hearing, the police witnesses including W49, the Chief Police Officer (CPO) of KL and W37, the OCPD of the Dang Wangi Police Station, testified that it was not possible for the PDRM to fully enforce the PAA 2012 which had come into effect only 5 days before the assembly; instead it adopted what it perceived

⁴ The Peaceful Assembly Bill was tabled in the Dewan Rakyat on 22 November 2011 and passed 7 days later on 29 November 2011. It was passed by the Senate on 20 December 2011 and published in the Gazette on 9 February 2012.

to be the ‘spirit’ of the PAA 2012 in handling the assembly. In more specific terms, PDRM adopted what it termed as the 3R 1C 1E approach – that is, Restraint, Restraint, Restraint; Caution and Enforce. However, it is the Panel’s opinion that this approach did not in any way reflect the spirit of the PAA 2012; rather, it would appear that the police were ordered to keep their distance from the participants and not to make any arrest unless otherwise ordered. Merely exercising restraint is not quite the same as facilitation which connotes a more active and participatory role, a role that the PAA 2012 requires the police to play for the orderly and lawful conduct of any public assembly.

Chapter 2

THE CONDUCT OF THE INQUIRY

Witnesses and Public Hearing

- 2.1 The public hearing commenced on 5 July 2012 and ended on 10 January 2013. Altogether, the Panel of Inquiry sat for a total of 29 days during which 49 witnesses were called to testify before it. Most of the witnesses who were members of public and media were called based on the list provided by the civil society organisations whereas most of the police personnel were called based on the list provided by PRDM and testimonies of the witnesses at the hearings. The Commission subpoenaed all the witnesses under section 14 of the Human Rights Commission of Malaysia Act 1999. The table below shows the number of witnesses according to the various categories:

No	Category	Total number of witnesses
1	Members of Public	19
2	Members of Media	4
3	Police Personnel	18
4	Professionals/Experts	8
Total		49

- 2.2 The Panel also received 67 exhibits and identified documents (ID) (**Annex 4**), including documents, photographs, video recordings, news clippings, medical reports, and police reports during the course of the proceedings.

Site Visits

- 2.3 Besides the public hearings, the Panel of Inquiry also made two site visits:
- Dataran Merdeka and the surrounding areas, Jalan Tun Perak, Masjid India, Jalan Tuanku Abdul Rahman and the DBKL building; and
 - Kompleks Pasukan Simpanan Persekutuan Polis DiRaja Malaysia, Cheras* where the police demonstrated the use of barbed wires, tear gas, command vehicle, sound commander and explained the procedures on crowd control.

Observers

- 2.4 The Panel of Inquiry invited the Royal Malaysian Police (PDRM), the Bar Council, and BERSIH 2.0 to act as observers as well as to assist the Panel in various matters, where required. The Attorney-General's Chambers declined the invitation to act as an observer in the proceedings. The observers were allowed to question the witnesses through the Panel of Inquiry. On 10 January 2013, all three observers made both oral and written submissions to the Panel for its deliberation.
- 2.5 The Commission would like to express its gratitude to all witnesses and observers for their co-operation and assistance during the Inquiry; the Office of the Inspector-General of Police (IGP) for providing the names of police personnel and several documents; the BERSIH 2.0 Secretariat for providing a list of alleged victims of assault; and members of media, both online and print, for their coverage of the hearings.

Recommendations From Previous Public Inquiries

- 2.6 The Panel takes note of the various recommendations made by the Commission in its previous inquiries and in particular, the *Report of SUHAKAM Public Inquiry Into The Incident at KLCC on 28 May 2006* and the *Report of the Public Inquiry Into The Infringement of Human Rights Including the Use of Excessive Force Prior to and During the Assembly on 9 July 2011*. The Panel is of the opinion that the recommendations contained therein are still relevant, and therefore, to the extent applicable and in addition to its other recommendations, the Panel adopts those recommendations, and for emphasis, reiterates some of them.

Limitations

- 2.7 The findings in this Inquiry are based on the testimonies of the witnesses and the evidence presented before the Panel of Inquiry. The Panel takes note that there were persons who were involved in the incidents during and after the public assembly but who, for reasons of their own, did not come forward to assist the Panel in its inquiry. There were also some potential witnesses from the list of names provided by BERSIH 2.0 who either chose not to testify or were uncontactable.
- 2.8 The Panel notes that several witnesses could not be called because of pending or ongoing court proceedings, for instance, police witnesses who were injured and participants who were allegedly involved in the breach of the barricades in the vicinity of Dataran Merdeka.

- 2.9 While the Panel is appreciative of the co-operation and assistance rendered by PDRM in providing names of its police personnel, it is disappointed that notwithstanding several and repeated requests, PDRM failed to provide the names of police personnel on duty at Jalan Tun Perak after 3.00 pm where the alleged incidents of use of disproportionate and unwarranted force took place. In particular, the names of those on general duties (GDs) were not made available to the Panel. PDRM also did not send personnel who could answer the allegations made during the testimonies of the various civilian witnesses. As a result, the Panel was not able to obtain direct responses to many of the allegations made during the hearing, thus forcing the Panel to draw various inferences, not all of which are necessarily favourable to PDRM.
- 2.10 The Panel would also like to record that several key witnesses did not assist the Inquiry to the best of their abilities and either failed to provide or were not forthcoming in providing crucial information during the hearing. One key witness from PDRM also failed or was unable to identify the police personnel depicted in the video clips notwithstanding specific instructions from the Panel to supply the information upon his recall to the stand.
- 2.11 There were also several medical personnel who were not co-operative and did not assist the Panel by providing testimonies based on medical reports prepared by them.

Chapter 3

HUMAN RIGHTS INFRINGEMENT DURING THE ASSEMBLY

General Testimonies from the Witnesses

- 3.1 Although the assembly was due to take place from 2.00-4.00 pm on 28 April, a number of participants could be seen making their way to and camping in the vicinity of Dataran Merdeka the night before the day itself. On the morning of 28 April, participants could be seen gathering in smaller groups,⁵ at various locations such as KLCC, Masjid Jamek, Jalan Sultan, Brickfields, Central Market and Masjid Negara, before making their way to the areas around Dataran Merdeka, such as Jalan Tun Perak, Jalan Tuanku Abdul Rahman, Jalan Parlimen and Jalan Sultan Ismail.
- 3.2 The witnesses including Kunabal a/l K. Rajagopal (W1), Baharudin bin Hashim (W2) and Khairul Anuar bin Pawanchik (W3) testified that the atmosphere at Jalan Tun Perak, Masjid Jamek, Jalan Parlimen and Jalan Sultan Ismail on the morning of 28 April 2012 was carnival-like and generally incident-free; participants were seen singing, reciting poetry and dancing. This was corroborated by the police witnesses as well. Superintendent Zahari bin Haji Mohd Yusoff (W23) testified that there was nothing amiss in the morning. Similarly, ASP Ahmad Jais bin Ujang (W28) testified that the situation was under control until 3.00 pm. According to the witnesses, the police were mainly on standby and were not seen to be taking any action against the participants. Many participants were seen around or sitting close (about 20 metres) to the barricade erected at the intersection of Jalan Raja and Jalan Parlimen. Overall, the witnesses testified that until 3.00 pm, there were no incidents that could be considered as amounting to violations of human rights either from the participants of the assembly or the police.
- 3.3 There were many differing opinions as to the number of the participants, with figures ranging from 25,000 – 30,000 as estimated by Dato' Mohmad bin Salleh, the Chief Police Officer of Kuala Lumpur (W49) to 250,000, as estimated by Dato' Ambiga Sreenevasan (W48). The majority of the participants could be seen wearing yellow T-shirts, with many others wearing green⁶ representing the Himpunan Hijau⁷ movement.

⁵ The six gathering locations were: Brickfields (12.30 pm), Jalan Sultan (1.30 pm), Masjid Negara (1.30 pm), Pasar Seni (1.30 pm), Masjid India (1.30 pm) and KLCC (12.00 pm).

⁶ According to witnesses Leong Siew Meng (W11) and Lee Teck Yew (W12).

⁷ The purpose of the Himpunan Hijau campaign was to create more awareness on the part of Malaysians of the need to protect the environment and the greenery of the country. (<http://anilnetto.com/environmentclimate-change/live-himpunan-hijau-raub/>).

- 3.4 According to the police, barricades were erected in the early hours of 28 April at a few locations at Jalan Bunus, Jalan Masjid India, Jalan Leboh Pasar/Jalan Benteng and Jalan Raja/Jalan Parlimen.⁸ The barricades consisted of two types of barrier, that is, road water-filled barriers and steel barriers, in front of which, and facing the crowds, were mounted dannert or concertina razor barbed wires.⁹ Police personnel from PORU¹⁰ formed a human barricade behind the barricades. These barricades were mounted for the purpose of preventing the participants from entering Dataran Merdeka, apparently in compliance with the Court Order¹¹ which the police had obtained *ex-parte* from the Kuala Lumpur Magistrate Court on 26 April 2012, and pursuant to the powers of the police under section 26 of the Police Act.¹²
- 3.5 According to Superintendent Zahari Haji Mohd Yusoff¹³ (W23), while he was responsible for assembling the barbed wires, the other barricades were installed by the joint efforts of PDRM and DBKL. According to W23, the installation of the barricades was carried out the night before the assembly to prevent the participants from occupying the venue. ASP Alekzandra bin Dawam (W25), ACP Mohamad Zulkarnain bin Abd Rahman (W37) and Dato' Mohmad bin Salleh (W49) confirmed the purpose of the installation of the barricades.
- 3.6 All of the witnesses agreed that they did not anticipate the turn of events nor the actions by the police. A few opposition leaders were seen at various locations with some giving speeches, including Datuk Seri Anwar Ibrahim and his wife, Datin Seri Wan Azizah. According to Dato' Ambiga Sreenevasan (W48), as the organiser, she also gave speeches to the crowd before calling upon them to disperse at or around 3.00pm. The participants were reportedly chanting slogans such as '*Reformasi*' and '*BERSIH*'. According to W23, he could also hear the participants chanting '*Rempuh*'.
- 3.7 At approximately 3.00 pm, the participants were seen moving towards Dataran Merdeka. A number of witnesses close to the barricades claimed to have seen a small group of participants wearing either yellow or black T-shirts approaching the barricade along the intersection of Jalan Raja and Jalan Parlimen and proceeding to dismantle it. According to Superintendent Zahari Haji Mohd Yusoff (W23),

⁸ W23 assembled the first layer at 1.00 am on 28 April 2012.

⁹ Khairul Anuar Pawanchik, W3. According to W23, however, the wires were known as dannert wires.

¹⁰ PORU is the acronym for the Public Order and Riot Unit

¹¹ The Court Order which was obtained from the Kuala Lumpur Magistrate Court by the police was pursuant to section 98 of the Criminal Procedure Code.

¹² Section 26 of the Police Act gives the police power to erect road barriers. It states, "(1) Notwithstanding anything contained in any other law, any police officer may, if he considers it necessary so to do for the maintenance and preservation of law and order or for the prevention or detection of crime, erect or place or cause to be erected or placed any barriers on or across any public road or street or in any public place in such manner as he may think fit; and any police officer may take all reasonable steps to prevent any person from passing or any vehicle from being driven past any such barrier".

¹³ W23 is the Pegawai Pemerintah Unit 1, Pasukan Simpanan Persekutuan

the group took about 10 minutes to dismantle it by toppling the water and steel barriers over the barbed wire, seemingly to allow passage past the barricade.

- 3.8 Once the barricade was breached, the PORU officers who were on standby behind the barricades retreated and were replaced by the personnel of the Federal Reserve Unit (FRU). At least 4 FRU units were deployed,¹⁴ and upon W23's command, two of the units, Troop 4 Alpha under Superintendant Zahari Haji Mohd Yusoff (W23) and Troop 4 Bravo under ASP Alekzandra bin Dawam (W25), took their positions facing Jalan Raja Laut and Jalan Tunku Abdul Rahman respectively. W23 testified that he gave a warning to the participants to disperse and repeated it three times, saying '*Bersurai atau kami akan bertindak*.'¹⁵ When the crowd retreated, W23 maintained his position, but upon seeing the participants moving forward again, he repeated the warning 2-3 times using a loud hailer. W23 instructed the first round of water cannon to be fired at about 3.15 pm.¹⁶ According to ASP Alekzandra bin Dawam (W25), the first round consisted of plain water, followed by rounds of water laced with chemical.¹⁷ W25 instructed his troop to start firing tear gas when the water cannons failed to disperse the participants.
- 3.9 Troop 4 Alpha and Troop 4 Bravo moved towards and onto Jalan Raja Laut and Jalan Tuanku Abdul Rahman respectively, firing water cannon and tear gas continuously along the way. According to ASP Alekzandra bin Dawam (W25), except for the initial warnings, no additional warnings were given for the subsequent firing of the chemical-laced water or the tear gas. Troop 4 Alpha stopped firing when it reached the junction of Jalan Raja Laut and Jalan Sultan Ismail (near the Sime Darby building). The troop was ordered to withdraw at 5.00 pm. Meanwhile, Troop 4 Bravo was ordered to turn back when it reached the SOGO Building at Jalan Tuanku Abdul Rahman at about 4.30 pm. At about 6.30 pm, Troop 4 Bravo was ordered to proceed back to Jalan Tun Perak where they fired more water cannon and tear gas. Troop 4 Bravo turned back to Dataran Merdeka at about 7.30 pm, and returned to the FRU headquarters in Cheras at about 10.00 pm.
- 3.10 A number of witnesses claimed not to have heard any warnings before the firing of the water cannons or the tear gas, especially those who were farther away from the intersection of Jalan Raja and Jalan Parlimen. Some heard the sound of bells,¹⁸ but according to Inspector Ambri bin Mat Nayan (W33) the ringing of the bells was a command to the police FRU personnel to get ready to fire; it was not meant as a warning to the public.

¹⁴ The four FRU troops were Troops 1 Alpha, 1 Bravo, 4 Alpha and 4 Bravo.

¹⁵ 'Disperse, or we will disperse you'.

¹⁶ Troops 4 Alpha and 4 Bravo fired the water cannon simultaneously.

¹⁷ 2-chlorobenzalmalononitrile (also called o-chlorobenzylidenemalononitrile) (chemical formula: C₁₀H₅ClN₂), a cyanocarbon, is the defining component of a "tear gas" commonly referred to as CS gas, which is used as a riot control agent.

¹⁸ Arshad bin Abbas (W5) heard the sound of bells being rung three times, similar to an ice-cream truck, at about 3.05pm/3.10pm for 30 seconds.

- 3.11 As a result of the continuous rounds of water and tear gas, the participants had no alternative but to scatter to avoid the effects of the water and tear gas. However, due to the size of the crowd, movement was difficult and at the same time, hampered by the lack of exit routes. It was at this time that many of the participants fell and sustained minor injuries, while many spoke of difficulties in breathing and stinging sensation in the eyes.

Testimonies from Injured Witnesses

- 3.12 Chong Min Shih (W4) testified that she was hit by a gas canister on the right side of her neck, as a result of which she lost consciousness and fell, and had to be assisted by her friends and other participants. **(Exhibits 12 & 13 (a))**. Asrul Wadi bin Ahmad (W13) testified that his right eye was hit by a blunt object which he believed to be a gas canister while he was standing outside Masjid Jamek. At the hospital, he received 9 stitches on his injured eye and 2 stitches on his nose. The injury caused him to see a black dot in his line of vision of his right eye. The hospital confirmed that the injuries had rendered W13 to be permanently visually impaired in his right eye. Upon further questioning, W13 who is a fresh graduate, informed the Panel that as a result of his injuries, he had to forgo a potential career opportunity, which required him to have perfect eyesight **(Exhibit 33(a)-(c))**.
- 3.13 Adrian Low Kok Swee (W7) stated that while waiting in front of the LRT Masjid Jamek station at or around 5.00 pm, he was approached by a policeman who said, *'Hey I nak tahan you, sebab you pakai baju kuning,'*¹⁹ and not resisting arrest, he was taken towards Dataran Merdeka. On the way, he was attacked and received punches and kicks from other police personnel, who also tore off his yellow T-shirt. W7's medical report reads 'multiple bruises seen on chest, right and left hypochondrium area' and 'multiple bruises at the back with shoe mark imprint'. He also informed the Panel that he lost temporary vision in his right eye due to the kick he received on his eyes. The witness also submitted to the Panel photographs and a medical report of his injuries. **(Exhibits 19-20(a)-(e))**.
- 3.14 Leong Siew Meng (W11) testified that he was trying to leave the area via Jalan Parlimen when he was chased by a group of police personnel and DBKL officers, and was not allowed to use that route, and had to retreat to the DBKL building. Upon reaching the building, he found himself in the midst of a crowd that was trying to escape the tear gas. Subsequently, he was injured by a police personnel in a scuffle, who allegedly snatched his gold necklace.

¹⁹ "Hey, I am going to arrest you, for wearing a yellow T-shirt."



TWIN TOWERS MEDICAL CENTRE

ATTENDING PHYSICIAN'S REPORT

Without Prejudice. Not to be copied for Medico-Legal Purposes

To: Police Officer concerned _____ Date: 28 April 2012

Dear: Officer in charge

Re:- Mr/Mrs/Ms Chong Min Shin Age 36/female

TIMC MRN 151855 NRIC No _____

1) The above named was seen here on 28 April 2012 for management of
seen at 5pm for alleged injury to R side of neck by a 'cannister' in the BERSIH rally according to the
patient. Claims fell down on the ground and hit forehead against floor and was 'unconscious' for a few
seconds

2) Investigations and Treatment done :-
general condition good, alert and conscious, Bp 110/74, Pupils equal and reactive, no ENT bleeding, no
scalp tenderness, small abrasion wound seen at the fontale region, also 6 cm discoid abrasion wound
noted at the R side of the neck, mild edema, tender

3) Provisional diagnosis: Abrasion wound to the R side of the neck due to a blunt object

4) Present management wound dressing, antiinflammatories and antibiotics to prevent infection

5) Advised to monitor condition, if swelling at the abrasion wound enlarges, feeling dizzy or
alternating consciousness, to go to hospital for emergency treatment

With best regards,

Yours Sincerely

Dr. F. Gop. Mohd.
Accredited: MAM, MB, CH, BAO (Malaysia)
Primary Care Physician
Clinic: Suite 310, 311/312
1st Floor, Twin Towers Medical Centre, Kuala Lumpur
100-000-0000 (Tel) 100-000-0000 (Fax) 100-000-0000 (Email)
www.twin-towers-medical-centre.com

[Signature]

Doctor's Signature & Stamp

TWIN TOWERS MEDICAL CENTRE KLOEC SDN BHD (417262-P)
LOT 401 F&G, LEVEL 4, SURIA KLOEC, KUALA LUMPUR CITY CENTRE, 5008 KUALA LUMPUR

Exhibit 12: Medical report from Twin Towers Medical
Centre made by W4 on 28 April 2012.



Exhibit 13 (a): Injury sustained by W4 on 28 April 2012



Exhibit 13 (b): The mark left by the injury after 1 month

EXHIBIT 33



HOSPITAL BUKIT MERTAJAM
JALAN KULIM
14000 BUKIT MERTAJAM
SEBERANG PERAI TENGAH

TEL : 04-5497333
FAX : 04-5497299

Ruj. Tuan :
Ruj. Kami : LP(1151/2012)DJM. PR/HBM
Tarikh : 3 JULAI 2012

ASRUL WADI BIN AHMAD
625 Kampung Setoi
Permatang Buloh
13200 Kepala Batas.

Laporan Perubatan (Medical Report)
Kementerian Kesihatan Malaysia

Butiran Pesakit (Patient Particulars):

Nama pesakit (Name of patient) : ASRUL WADI BIN AHMAD

No. K/P (I/C No.): Baru (New) 860902-35-5733 Lama (Old) : -

No. Passport (Passport No): - MRN: 05488/12

Umur (Age): 26 years Jantina (Sex) ☒ Lelaki (Male) ☐ Perempuan (Female)

Tarikh masuk wad atau menerima rawatan buat kali pertama (Date of admission or receiving treatment for the first time) : 29/4/2012

Tempat menerima rawatan (Place where patient received treatment):

☐ Jabatan Kecemasan (Emergency Department)

☒ Klinik Pakar (Specialist Clinic) ☒ Wad (Ward): 4

Tarikh discaj dari wad atau meninggal dunia (Date of discharge): 4/5/2012

Disiplin (Discipline):

Ophthalmology

Exhibit 33(a)

-2-

Sejarah (History):
(Including Presenting Complaints, History of Presenting complaints, Past Medical History, Family History, Family History, Social History and Occupational History, Review of systems, Medical Records reviewed)

Alleged injured by hard flying object (tear gas cannister) over right eye, during BERSIH - 3 rally on 28/4/2012 about 3.00 pm and complaint of pain, loss of vision and swelling of right eye region with bleeding from nose and was referred from Hospital Kuala Lumpur with right upper eye lid sutured wound, following the request of the patient. Patient was admitted in eye ward/Hospital Bukit Mertajam on 29/4/2012.

Pemeriksaan Fisikal (Physical Examination):
(Including general assessment, Eye, ENT, Oral Cavity, Respiratory System, Cardiovascular System, Abdomen, Genitourinary, Central Nervous System, Musculoskeletal, Mental Health Status and Others):

Vision RE - HM, LE E/6, Right eye noted, periorbital oedema with lacerated wound over right upper lid (sutured). Sub conj. Hemorrhage, traumatic mydriasis, hyphema indolent, reverse RAPD negative, raised IOP (34 mm). Fundoscopy noted, vitreous hemorrhage with hazy view and sub retinal bleed with macular edema, left eye no abnormality detected.

Keputusan ujian makmal dan radiology (Summary of Investigations):

Skull x-ray - No evidence of IOFB
CT Brain/Orbit/P. Nasal Sinuses - Right orbital floor fracture with periorbital and tissue injury.
No foreign body detected
FBC, BUSE/CREAT, No abnormality detected.

Diagnosis (Diagnosis):

Right eye - Post traumatic -

- Periorbital hematoma with hyphema
- Fracture floor of orbit
- Traumatic mydriasis with indolent hyphema
- Secondary glaucoma with angle recession
- Vitreous hemorrhage with commotio retinae involving macula

Rawatan (Treatment)
Rumusan prosedur yang dijalankan ke atas pesakit (summary of procedure carried out on patient):

Right eye upper lid laceration treated by lid toilet and suturing
Patient referred to Dental Department and ENT for management of fracture floor orbit and for nasal bleeding.
Patient referred to vitreo-retinal surgeon/Hospital Alor Setar for VR management and was explained poor visual prognosis.

Exhibit 33(b)

-3-

Preskripsi ubat-ubat yang diberikan kepada pesakit (drugs and other medicaments prescribed to patients):

G. Moxidex 2 hourly RE
G. Cloxan 2 hourly RE
G. Homatropine TDS RE
T. Diamox 250 mg TDS
T. Slow K 11/11 BD
G. Timocomed BD RE
G. Alphagan TDS RE
G. Trusopt BD for right eye

Perkembangan keadaan pesakit panjang di bawah penjagaan doktor termasuk rawatan susutan (progress of patient while under the care of the doctor including follow up):

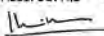
Poor improvement of visual acuity in right eye noted due to macular scar (from HM - CF) and visual prognosis of right eye explained as guarded.

Keadaan pesakit ketika berjumpa kali terakhir dengan doktor (condition of the patient last seen by the doctor): Poor and slow progression of vision (from Tarikh/Date): 13/6/2012
Handover to CF noted on right eye.
Intra Ocular Pressure (IOP) controlled with medications
and patient advised for follow up treatment periodically
in eye clinic Hospital Bukit Mertajam

Cuti sakit/sekolah (Medical certificate/school leave):
Dari (From) Hingga (to)

Surat kerja ringan yang diberikan (Light duty given):
Dari (From) Hingga (to)

Laporan disediakan oleh (Report prepared by):

Nama (Name): DR. K. KALAI MOHAN
NO. Passport: E 4987702 Jawatan (Designation): Pakar Mata
Kehuluan (Qualification): MBBS, DO, M.S Jabatan (Department): Ophthalmology
Tandatangan (Signature): 
Tarikh (Date): 4/7/12 Masa (Time): 12.30 pm

Cop rasmi Hospital (Official Hospital Stamp)
DR. KALAI MOHAN
No Pendaftaran Perub: 38258
Pakar Mata
Jabatan Oftalmologi
Hospital Bukit Mertajam

Exhibit 33(c)

Exhibit 33 (a-c): The medical report of W13 from Hospital Bukit Mertajam

50586 KUALA LUMPUR	
Ruj Tuan	: -
Ruj Kami	: HKL/JK/98/133 (A/43/12)
Tarikh	: 28/5/2012
Butiran Pesakit (Patient Particulars) :	
Nama Pesakit (Name of patient)	: ADRIAN LOW KOK SWEE
No.K/P (I/C No): Baru (New)	: 730529 71 5095
No Pasport (Passport no)	: nil
Umur (Age)	: 39 Tahun (years)
Jantina (Sex)	: Lelaki (male)
Tarikh masuk wad atau menerima rawatan buat kali pertama (Date of admission or receiving treatment for the first time): Tarikh (Date) : 28/4/2012 Masa (Time) : 2315H	
Tempat menerima rawatan (Place where patient received treatment): Jabatan Kecemasan & Traumatologi (Emergency & Traumatology Department)	
Tarikh discaj dari wad atau meninggal dunia (Date of discharged or death): N/A	
Disiplin (Discipline): Emergency & Traumatology	
Sejarah (History): 39 years old Chinese male, brought in by Pre Hospital Care team of Emergency & Trauma Department of HKL on 28/4/2012 at 2315H. Patient was allegedly assaulted by a group of men around 1700H on 28/4/2012. Was pushed down and kicked multiple times at while body including abdomen. Sustained epistaxis from right nostril. Patient was still able to ambulate on his own.	
Pemeriksaan fizikal (Physical examination): On examination, blood pressure was 105/71 mmHg, pulse rate 90/min, Spo2 94% and Glasgow coma scale 15/15. No cervical tenderness, chest spring ; negative. Noted :- i. Multiple bruises seen on chest, right and left hypochondrium area. ii. Multiple bruises at the back with shoe mark imprint. Soft abdomen with normal bowel sound. Skull and cervical x-ray showed no fracture seen. Chest x-ray showed no ribs fracture.	
 CERTIFIED TO MS ISO 9001:2000 Registration No. AR3649 PENYAYANG, KERJA BERPASUKAN DAN PROFESIONALISME ADALAH BUDAYA KERJA KITA  ACCREDITED HOSPITAL	

Exhibit 19: W7's medical report from Hospital Kuala Lumpur



Exhibit 20(a)



Exhibit 20(b)



Exhibit 20(c)



Exhibit 20(d)



Exhibit 20(e)

Exhibits 20(a-e) show injuries suffered by W7

- 3.15 The majority of the witnesses²⁰ who were arrested and led to the holding area at Dataran Merdeka, beside the Royal Selangor Club, the designated area for detainees arrested that day, claimed to have to walk past police personnel lining both sides of the road,²¹ and to have received punches, kicks and blows to their bodies from those police personnel. Many witnesses observed that there were about approximately 50 police personnel on each side of the road. Some stated that the police also hurled profanities at them.
- 3.16 Kumar Suppiah (W6) was dragged by his collar by police personnel to the front of the DBKL building to join about 40-50 other participants who had also been ordered to wait there. At about 4.30 pm, they were ordered to head towards Royal Selangor Club, and on the way there, near the St Mary's Church, W6 claimed that a few police personnel ran towards them and started to kick them.
- 3.17 W6 also testified that a police personnel told him, "*Saya akan hapuskan kamu bila balik, sampai balai*,"²² adding that a policeman had been injured, and that they (the participants) would be dealt with should anything happen to their colleague. While in the bus on the way to PULAPOL, he witnessed traffic police personnel beating a participant, who was restrained by two police personnel, one on each side. He testified that many among the other participants with him on the bus were also suffering from various injuries.

²⁰ Kumar Suppiah (W6), Leong Siew Meng (W11), Lee Teck Yew (W12), Koh Jui Lin (W16)

²¹ According to W16, he had to 'run the gauntlet', referring to the two lines of policemen.

²² "I will destroy you once we reach the police station".

- 3.18 Leong Siew Meng (W11) stated that while being led past the lines of police personnel to the holding area beside the Royal Selangor Club, one of the police personnel kicked him on the buttocks. Meanwhile, Lee Teck Yew (W12) received 4-5 stitches behind his ears from the injuries he sustained due to police action. (Exhibits 31 (a) & (b), and Exhibit 32).

 JABATAN KECEMASAN & TRAUMA <i>Emergency & Trauma Department</i> HOSPITAL KUALA LUMPUR <i>Kuala Lumpur General Hospital</i> JALAN PAHANG 50586 KUALA LUMPUR		W12 TEL : 03-26906699 FAX : 03-26915230 WEBSITE: www.hkl.gov.my	EXHIBIT 31(a) <i>Medical Legal Unit / 5333</i>
Ruj Tuan : - Ruj Kami : HKL/JK/98/133 (L/16/12) Tarikh : 29/5/2012			
Butiran Pesakit (Patient Particulars) :			
Nama Pesakit (Name of patient) : LEE TECK YEW No.K/P (I/C No): Baru (New) : 730616 14 5473 No Pasport (Passport no) : nil Umur (Age) : 38 Tahun (years) Jantina (Sex) : Lelaki (male)		Lama : nil MRN : Apr. 4548/12	
Tarikh masuk wad atau menerima rawatan buat kali pertama (Date of admission or receiving treatment for the first time): Tarikh (Date) : 29/4/2012 Masa (Time) : 0210H			
Tempat menerima rawatan (Place where patient received treatment): Jabatan Kecemasan & Traumatologi (Emergency & Traumatology Department)			
Tarikh discaj dari wad atau meninggal dunia (Date of discharged or death): N/A			
Disiplin (Discipline): Emergency & Traumatology			
Sejarah (History): 38 years old Chinese male, presented at Emergency & Trauma Department of HKL on 29/4/2012 at 0210H. Allegedly assaulted on 28/4/2012. Was hit multiple times on head and body. Sustained bleeding wound at right ear. No loss of injury. Examined by me and Dr Hazney Ibrahim at Non-Critical Zone, Emergency & Trauma Department of HKL.			
Pemeriksaan fizikal (Physical examination): On examination, blood pressure was 116/79 mmHg, pulse rate 86/min, Spo2 99% and Glasgow coma scale 15/15. Noted laceration wound (4cm) on the back of right ear with bruising of the earlobe. Intact tympanic membrane bilaterally. Small bruise on left cheek and right lower abdomen.			
Diagnosis (Diagnosis): Laceration wound of right ear with soft tissue injury due to alleged assault.			
 CERTIFIED TO MS ISO 9001:2009 (Registration No. AR3649)		PENYAYANG, KERJA BERPASUKAN DAN PROFESIONALISME ADALAH BUDAYA KERJA KITA	
		 ACCREDITED HOSPITAL	

Exhibit 31(a)

Nama: LEE TECK YEW	R _x	Perubatan 6A-Pin. 3/96 DW 740043
No. K/P: 730616-14-5473	STO Day 7 (4/5/12) at nearest clinic	
No. Daftar:		
Umur:		
Tarikh: 29/4/12		
Penyakit: LACERATION WOUND OF RIGHT EAR	HOSPITAL NEGERI	 DR. HAZNEY IBRAHIM Pegawai Perubatan Hospital Kuala Lumpur No MMC 47047

226234-PNMB, K.L.

Exhibit 31(b)

Exhibit 31(a-b): Medical report of W12 from Hospital Kuala Lumpur

EXHIBIT

POLIS DIRAJA MALAYSIA
REPOET POLIS

Nama: JLN DANG WANGI
 Alamat: DANG WANGI
 Kuantiti: KUALA LUMPUR
 No. Repot: DANG WANGI 6889/12
 Tarikh: 29/04/2012
 Waktu: 0445 AM
 Bahasa Dikirim: B. Malaysia

Butir-butir Penorima Repot
 Nama: RAZIMAN BIN RAMLI
 Butir-butir Jurubahasa (Jika Ada)
 Nama: —
 No. Pasport: —
 Alamat: —
 No. Personal: R170100
 Pangkat: KOTAKSI
 No. K/P (Juru): —
 Bahasa Asal: —
 No. Polis/Tentara: —

Butir-butir Pengadu
 Nama: LEE TECK YEW
 No. K/P (Baru): 730616145473
 No. Sijil Beranak: —
 Jantina: Lelaki
 Keturunan: Cina
 Pekerjaan: AGEN INSURANS
 Alamat Tempat Tinggal: 32 LORONG BUNGA MELATI 28 TAMAN MAJU JAYA 55100 KL.
 Alamat Ibu/Bapa: —
 Alamat Pejabat: —
 No. Tel (Rumah): —
 No. Tel (Pejabat): —
 No. Tel (HP): 012-3261303
 Umur: 33 tahun 10 bulan
 Warganegara: Malaysia

Pengadu Menyatakan:
 DI TARIKH SENDIRI QUEH PENGADU
 PADA 28/04/2012 JAM 1850 HRS. SEMASA SAYA SEDANG MENUNGGU LRT DI PLATFORM LRT MASJID
 JAMEK SAYA MASUK STesen LRT DANG WANGI. TUKAR TREN DI MASJID JAMEK NAIK KE PLATFORM
 TANPA KETIDAKSELAMATAN SAYA MENANGKAP GAMBAR DARI PLATFORM, DI MANA LEBIH DARIPADA 30
 ORANG POLIS TANPA TAG NAMA DAN NOMBOR POLIS MENYERANG ORANG RAMAT SAMSIL MENYERU
 STesen LRT MASJID JAMEK LEBIH DARIPADA 40 ORANG POLIS (SEORANG ANGGOTA POLIS BERPAKAIAN
 PREMAN) MENYERANG SAYA PADA SETAP SATU MASA DENGAN KUAT SEKALI DENGAN TUMBUKAN,
 TERCAKUT YANG BERTERUSA. SAYA DIBAWA KE DATARAN MERDEKA UNTUK MENAIKI TRAK POLIS
 SERING KATAPALANG YABAL POLIS MENYERANG SAYA. MERKA TIDAK MENJAWAB KENAPA SAYA
 DITAGKAP DAN DIPUKUL DAN SALAH MANA SAYA AKAN DIRAWA. SAYA MENDAPAT RAWATAN 6 JAHITAN
 DI BAGIAN TELINGA, BENGKAK DI BAGIAN BAWAH MATA KIRI, LEBAM DI KAKI, TANGAN, KEPALA DAN
 PINGGANG. SAYA BUAT LARAKAN INI UNTUK MENUNTUT KEADILAN SERTA SUPAYA PIHAK
 BERKUASA MENGAMBIL TINDAKAN DISIPLIN KE ATAS MERKA YANG MENYERANG SAYA TANPA
 ALASAN SEKIAN LAPORAN SAYA.

Tandatangan Penorima Repot: 
 Tandatangan Pengadu: 
 Salinan Repot Pertama

Exhibit 32: Police report dated 29 April 2012 lodged
at Dang Wangi Police Station by W12

- 3.19 Various witnesses also testified to being beaten by groups of police personnel. Adrian Low Kok Swee (W7) stated that at or around 5.00 pm, he was in front of Masjid Jamek, where he saw a large group of police personnel coming from the direction of Dataran Merdeka and being joined by other police personnel along the way. He also saw police personnel who were gathered in rows shouting at the participants and challenging them to '*mari lawan*', ("come and fight"). At the same time, they were seen picking up objects and throwing them at the crowd. This incident was similar to the one experienced by Suhaimi bin Suratman (W8), where he and other participants were physically and verbally assaulted by a group of police personnel. In the process, W8 was seriously injured, and his nose broken. W8 did not however submit any medical report in support of his testimony.
- 3.20 Hanif bin Ahmad Zainudin (W9) and his friends were also attacked by a group of 10-15 police personnel (**Exhibit 25**). W9 also testified that he saw a detainee who was seriously injured, and later thrown into the police truck like a sack of rice, which was corroborated by Lee Teck Yew (W12) in his testimony to the Panel.

Exb 25

POLIS DIRAJA MALAYSIA
REPOT POLIS

Balai : AMPANG
Daerah : AMPANG JAYA
Kontinjen : SELANGOR
No Repot : THSL015135/12
Tarikh : 29/04/2012
Waktu : 1115 AM
Bahasa Diterima : B. Malaysia

Butir-butir Penerima Repot
Nama : NAJIB BIN BAKRI
Butir-butir Jurubahasa (Jika Ada)
No K/P : —
No Pasport : —
Alamat : —

No Personel : R174735
Pangkat : KONST/P
No K/P (Baru) : —
Bahasa Asal : —
No Polis/Tentera : —

Butir-butir Pengadu
Nama : HANIF BIN AHMAD ZAINUDIN
No K/P (Baru) : 751028055274
No Sijil Beranak : —
Jantina : Lelaki
Keturunan : Melayu
Pekerjaan : SENDIRI
Alamat Tempat Tinggal : NO 172 FELDA PASOH 2 72300 SIMPANG PERTANG NEGERI SEMBILAN
Alamat Ibu/Bapa : —
Alamat Pejabat : —
No Tel (Rumah) : —

No Polis/Tentera : —
No Pasport : —
Tarikh Lahir : 28/10/1975
Warganegara : Malaysia
Umur : 36 tahun 5 bulan

No Tel (Pejabat) : —
No Tel (HP) : 013-2741234

Pengadu Menyatakan:-
DISALIN DARIPADA KERTAS PUTIH YANG DI BAWA PENGADU:

PADA JAM LEBIH KURANG 08.30 PETANG SAYA SEPERTI NAMA DI ATAS TELAH DI DATANGI OLEH SEKUMPULAN POLIS BERPAKAIAN SERAGAM BIRU GELAP DI LUAR PERKARANGAN MASJID JAMEK KUALA LUMPUR DI SEBERANG SUNGAI DI HADAPAN BANK HSBC YANG TIBA-TIBA MENYERANG DAN MEMUKUL BAHAGIAN KEPALA SAYA BERTINDAK CUBA MEMPERTAHANKAN DIRI TETAPI DI SERANG DENGAN LEBIH TERUK SAYA TELAH DI PUKUL DI BAHAGIAN HIDUNG PINGGANG LEHER DAN BAHAGIAN TUBUH YANG LAIN AKIBAT DARI PUKULAN ITU SAYA TELAH MENGALAMI PENDARAHAN YANG TERUK DI BAHAGIAN HIDUNG.

SEMASA KEJADIAN SAYA SEDANG BEREHAT SEBENTAR SESAMA KAWAN-KAWAN DALAM PERJALANAN BALIK SAYA TIDAK MEMBUAT APA-APA KESALAHAN DAN TIDAK MEMAKAI BAJU KUNING PESERTA BERSIH SAYA JUGA TIDAK MENGHALANG TUGAS POLIS
SAYA TIDAK BERPUAS HATI KERANA POLIS TELAH MEMUKUL SECARA MEMBABI BUTA SAYA SEORANG TELAH DIBELASAH OLEH LEBIH KURANG 10-15 ORANG ANGGOTA POLIS SAYA TELAH MENGALAMI KECEDEeraan YANG TERUK OLEH ITU SAYA MEMINTA POLIS MENYIASAT LAPORAN SAYA.
SEKIAN LAPORAN SAYA

Tandatangan Pengadu :  Tandatangan Jurubahasa (Jika ada) : Tandatangan Penerima Repot : 

Salinan Repot Pertama

Exhibit 25: Police report dated 29 April 2012 lodged at
Ampang Jaya Police Station by W9

- 3.21 Hanafi bin Ahmad Zainuddin (W10) in his testimony said that a group of police personnel approached him and his friends. Since it was impossible for them to leave, they decided to sit down and wait until they could leave the area. Hence, they did not run when the police personnel approached them. Upon seeing him in a yellow T-shirt, a police personnel grabbed, but released him when he realised that W10 was wearing a yellow Negeri Sembilan jersey. However, W10's nephew, Faizullah was grabbed as he was wearing a yellow BERSIH T-shirt. Faizullah was taken to the HSBC building where he was allegedly hit and stomped upon by about 10-15 police personnel. When W10 tried to stop the police from further injuring Faizullah, he also received blows. He managed to retreat and escape by running away.
- 3.22 Hanafi bin Ahmad Zainuddin (W10) also saw the police chasing a man who was carrying a camera, and saw the police confiscating the camera.
- 3.23 In the above incidences involving groups of police personnel, the witnesses concerned testified that the police personnel concerned were either in full police uniform, or in uniform but without their identification number. Some were in plain clothes with or without a vest bearing the word POLIS. Kumar Suppiah (W6) also observed that many of the police personnel in uniform were not wearing any sort of identification.
- 3.24 Some witnesses testified that DBKL officers and the traffic police were also seen in these groups. W6 saw DBKL officers wearing dark green trousers with white stripes on the sides, hitting participants. Meanwhile Khairul Anuar bin Pawanchik (W3) saw a group of traffic police in their black and white uniforms riding their motorcycles against traffic while gesturing in a taunting manner at the participants.

Testimonies from Witnesses Detained at Premises

- 3.25 Many of the participants of the assembly tried to escape into nearby buildings to escape the effects of the water cannon and tear gas. Kumar Suppiah (W6) testified that while the tear gas was being fired, he ran to the DBKL building for shelter. He saw a young woman falling down in front of the steps of the DBKL building and being assisted by other participants to a part of the DBKL building where the ATMs were located. They suspected that she had broken her arm and was unable to move much. She was screaming in pain. Two groups of police personnel entered that part of the building, and upon seeing the situation there, left but not before informing them that an ambulance would be on the way. After a few minutes, a third group of 10-15 police personnel, including a DBKL officer entered the kiosk, and started to assault everyone there. W6 claimed that he was

stomped on his back and kicked about while he was helping the young woman. At the same time, he heard profanities²³ being hurled at him. W6 also furnished the Panel with the T-shirt that he wore on that day, which upon close inspection was found to be covered with boot prints. **(Exhibits 18(a) and (b))**. Another group of policemen also came and continued in the same manner, with each incident lasting for about 5 minutes each. According to W6, the young woman was also stomped upon by the police at one point. Later, W6 saw an ambulance arriving and the young woman was given treatment by the medical personnel.



Exhibit 18(a)



Exhibit 18(b)

Exhibits 18 (a) and (b): Photos of the BERSIH T-shirt worn by W6
on 28 April 2012

²³ W6 testified that the police just kept on kicking him, and at one point said to him 'pukimak keling' (Indian son of a bitch)

- 3.26 Leong Siew Meng (W11) went into the lobby of Lotus Hotel near Jalan Melayu, to use their washroom and to rinse off the effects of the tear gas. While the witness was not detained and managed to leave the premises, he could hear the police shouting orders to the ones who were still inside the hotel to leave the hotel. Later, upon being chased by the police, he entered Wisma Bandar's basement car park and remained there to avoid being arrested.
- 3.27 The Panel also watched a video **(Exhibits 29 (a),(b),(c))** submitted by Lee Teck Yew (W12), who was at the LRT Masjid Jamek station at about 6.50 pm where he managed to videotape a few police personnel beating members of the public who were in the station. Upon seeing him recording, some police personnel approached him, pulled his T-shirt and arrested him.
- 3.28 Karam Singh a/l Charan Singh (W14) testified that at about 7.00 pm, he entered the A&W restaurant at Jalan Silang and noted that 90% of the customers consisted of participants of the assembly. While he was inside the restaurant, he noticed that the police were chasing a group of participants along the road outside the restaurant. Upon seeing this, the staff of the restaurant locked the doors. However, within 5 minutes, a group of police personnel came and noisily demanded to enter the premises, showing their authority cards. When the staff unlocked the door, the police personnel went inside, and approached the customers, including W14, and demanded that they take off their BERSIH T-shirts. W14 also received a punch from the police personnel while still in the premises.
- 3.29 Hee Jenn Wei (W21) was registered as a guest at the Citin Hotel situated in the Masjid Jamek area. When the police started to fire tear gas, W21, who was wearing a yellow BERSIH T-shirt, was in front of the OCBC bank. In the panic that ensued, the participants moved backwards towards Masjid Jamek area and knowing that this was also the way to Citin hotel, he moved with the crowd for about 10-15 minutes until he reached the hotel. The hotel was locked and only those with access card could enter the lobby. The staff of the hotel had earlier covered the glass panel of the lobby with mahjong paper so that the lobby was not visible from the outside. Once inside, W21 entered the hotel's cafeteria and together with his lady companion, proceeded to order some food. After 20-30 minutes, a few police personnel entered the lobby of Citin Hotel and one police personnel in uniform without any name tag pointed in the direction of W21 and shouted, "*you ikut saya*".²⁴ He asked the police several times whether he was under arrest but received no response. Instead, he was grabbed from his chair and pulled to the entrance of the hotel. He informed the police 'I am not going to struggle' with his

²⁴ "You, follow me."

arms raised up in the air. Just as he finished his sentence, W21 was hit on the back of his head. His companion, who was still at the cafeteria was also wearing a yellow BERSIH T-shirt, although she was not arrested. She removed it and the police confiscated her T-shirt. Later, the policeman dragged W21 from Citin Hotel to Dataran Merdeka. On the way, he was kicked by other police personnel. The policeman dragging him also told him *"kenapa you datang sini, you tak tahu ini illegal?"*²⁵

- 3.30 Selamat bin Abul Hamid (W30) was at the Swiss Hotel on Jalan Tuanku Abdul Rahman with his wife and 4 children from ages 3-17. In the afternoon, he contemplated participating in the assembly. However, as he opened the lobby's door, the smell of tear gas made him turn back into the hotel. At that time, the lobby was crowded and full of people trying to escape the tear gas. He could also see that some were injured. After 10-15 minutes, 15-20 police personnel barged into the hotel and started to hit and kick those in the lobby. The police personnel shouted at those still in the lobby and instructed them to leave the hotel. W30 was physically pulled out together with his family and was detained near Dataran Merdeka.
- 3.31 Arshad bin Abbas (W5) said that those performing their prayers at Masjid Jamek around 2.00-3.00 pm were not allowed to leave the compound of the mosque via the main gate as it was being blocked by FRU personnel. However, he did notice that there was an exit point at the back of the mosque.
- 3.32 Baharudin bin Hashim (W2) testified that he was shopping at the SOGO shopping complex from the morning and at about 2.00 pm, he heard a commotion. He saw a few police personnel entering the shopping mall, and some men running as if they were being chased.
- 3.33 Chen Shaua Fui (W15) witnessed a man who was wearing a yellow BERSIH T-shirt and having a meal at a mamak restaurant (near the LRT Masjid Jamek) being dragged out by a group of police personnel.

Testimonies from Journalists

- 3.34 Chen Shaua Fui (W15) is a reporter with Merdeka Review, an online news portal. While taking photographs of the police assaulting some participants, she was reprimanded by them and warned not to take any photographs, even after showing her media identification tag. While attempting to take photographs of

²⁵ "Why did you come here? Don't you know this (demonstration) is illegal?"

another incident of the police assaulting some participants, she was surrounded and manhandled by 4 male policemen, with one policeman each at her sides, another behind her and the fourth facing her. The one facing her pulled her media tag until it came off and kicked it away. (Exhibit 35)

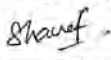
		POLIS DIRAJA MALAYSIA		Exb 35	
REPOT POLIS					
Balai	: JLN DANG WANGI				
Daerah	: DANG WANGI				
Kontinjen	: KUALA LUMPUR				
No Repot	: DANG WANGI/016984/12				
Tarikh	: 29/04/2012				
Waktu	: 1845 PM				
Bahasa Diterima	: B. Malaysia				
Butir-butir Penerima Repot					
Nama	: NORAZIAH BINTI MAT SALLEH		No Personel	: R164543	
Butir-butir Jurubahasa (Jika Ada)			Pangkat	: L/KPL	
Nama	: —		No K/P (Baru)	: —	
No Pasport	: —		Bahasa Asal	: —	
Alamat	: —				
Butir-butir Pengadu					
Nama	: CHEN SHAUA FUJ				
No K/P (Baru)	: 781201065586		No Polis/Tentera	: —	
No Sijil Beranak	: —				
Jantina	: Perempuan		Tarikh Lahir	: 01/12/1978	
Keturunan	: Cina		Warganegara	: Malaysia	
Pekerjaan	: ASSISTANT EDITOR				
Alamat Tempat Tinggal	: NO. 18, JALAN SS3/13, 46300 PETALING JAYA SELANGOR				
Alamat Ibu/Bapa	: —				
Alamat Pejabat	: —				
No Tel (Rumah)	: —		No Tel (Pejabat)	: —	
			No Tel (HP)	: 012-3242072	
Pengadu Menyatakan:-					
PADA 28HB APRIL 2012, LEBIH KURANG PUKUL 7.20 MALAM, SEMASA SAYA BERTUGAS DI JALAN HANG LEKIU, BERDEKATAN DENGAN SEGI COLLEGE, BERTENTANGAN DENGAN HUSSAIN CAFE, SAYA NAMPAK LEBIH DARIPADA SEPULUH ANGGOTA POLIS YANG BERPAKAIAN SERAGAM SEDANG MEMBUAT TANGKAPAN DI HUSSAIN CAFE. SAYA PUN BERDIRI DI SANA UNTUK MENANGKAP GAMBAR, BEBERAPA DARIPADA KUMPULAN ANGGOTA POLIS TERSEBUT TELAH NAMPAK SAYA DAN BERJALAN MENUJU KE ARAH SAYA. EMPAT ORANG ANGGOTA POLIS LELAKI TELAH MENUJU KE ARAH SAYA DAN SAYA TELAH MENGATAKAN SAYA ADALAH SEORANG WARTAWAN, DAN ANGGOTA POLIS TERSEBUT, SEORANG TELAH MEMEGANG TANGAN KIRI, SEORANG LAGI MEMEGANG TANGAN KANAN SAYA, SEORANG LAGI CUBA MERAMPAS BAG SAYA. SAYA MEMEGANG KAMERA SAYA DI TANGAN KANAN DAN TELEFON BIMBIT DI SEBELAH KIRI SAYA. SAYA MENANYA KEPADA SALAH SEORANG ANGGOTA POLIS BAHAWA ADAKAH SAYA DITANGKAP, TETAPI BELIAU TIDAK MEMBERI APA-APA JAWAPAN. LEPAS ITU, MEREKA CUBA MERAMPAS KAMERA SAYA, DAN TAG MEDIA SAYA YANG DIPAKAI DENGAN TALI TELAH DITARIK PUTUS DAN TAG MEDIA SAYA TELAH TERJATUH DI ATAS LANTAI, SALAH SEORANG ANGGOTA POLIS TELAH MENYEPAK TAG MEDIA TERSEBUT KE SEBELAH SAYA. SAYA BERJAYA MEMBEBAHKAN DIRI DARIPADA GENGAMAN ANGGOTA POLIS TERSEBUT, DAN PERGI MENGUTIP TAG MEDIA SAYA, LEPAS ITU ANGGOTA POLIS TERSEBUT TELAH MENINGGALKAN TEMPAT TERSEBUT. TUJUAN SAYA MEMBUAT LAPORAN INI ADALAH INGIN MENGGESA PIHAK POLIS UNTUK MENGAMBIL TINDAKAN TERHADAP KEKERASAN YANG DILAKUKAN OLEH ANGGOTA POLIS TERSEBUT, INI ADALAH KERANA SEBAGAI SEORANG WARTAWAN SAYA BERADA DI TEMPAT KEJADIAN ADALAH SEMATA-MATA UNTUK MENJALANKAN TUGAS.					
Tandatangan Pengadu:	Tandatangan Jurubahasa (Jika ada) :		Tandatangan Penerima Repot:		
					
Salinan Repot Pertama					

Exhibit 35: Police report dated 29 April 2012 lodged by
W15 at Dang Wangi Police Station

- 3.35 Koh Jui Lin (W16)²⁶ a journalist was prohibited from carrying out his duties even after showing his media tag to the police. He informed the Panel that the battery for his camera was 'lost' right after an inspection by the police. Later, he was arrested and taken to the holding area beside the Royal Selangor Club, and on the way there he had to pass through lines of policemen, where he received a few punches in the stomach. His media tag was also confiscated, and he was jeered by the police personnel waiting near the St Mary's church. (Exhibits 37 and 38)

POLIS DIRAJA MALAYSIA
REPOT POLIS

Balai : JLN DANG WANGI
 Daerah : DANG WANGI
 Kontinjen : KUALA LUMPUR
 No Repot : THSU015172/12
 Tarikh : 29/04/2012
 Waktu : 1552 PM
 Bahasa Diterima : B. Inggeris

Butir-butir Penerima Repot
 Nama : NURLIYANA BTE MUHAMAD AYOB
 Butir-butir Jurubahasa (Jika Ada)
 Nama : —
 No Pasport : —
 Alamat : —

Butir-butir Pengadu
 Nama : KOH JUN LIN
 No K/P (Baru) : 870311355877
 No Sijil Beranak : —
 Jantina : Lelaki
 Keturunan : Cina
 Pekerjaan : PHOTOGRAPHER/REPORTER
 Alamat Tempat Tinggal : A-20-3A, RIANA GREEN EAST, JALAN WANGSA DELIMA 7, 63300, WANGSA MAJU, KUALA LUMPUR
 Alamat Ibu/Bapa : —
 Alamat Pejabat : —
 No Tel (Rumah) : —

No Personel : R7164644
 Pangkat : KONT/P
 No K/P (Baru) : —
 Bahasa Asal : —
 No Polis/Tentera : —
 No Pasport : —
 Tarikh Lahir : 11/03/1987
 Warganegara : Malaysia
 Umur : 25 tahun 1 bulan
 No Tel (Pejabat) : —
 No Tel (HP) : 0124992687

Pengadu Menyatakan:-
 AT ABOUT 5:30PM ON APRIL 28, 2012, I WAS ON DUTY AS A PHOTOGRAPHER/REPORTER FOR MALAYSIKINI WHEN I WAS CONFRONTED BY TWO POLICE OFFICERS AT THE INTERSECTION OF JALAN MALAYSIKINI WHEN I WAS CONFRONTED BY TWO POLICE OFFICERS AT THE INTERSECTION OF JALAN RAJA AND JALAN PARLIMEN. I WAS ORDERED TO 'SIMPAN KAMERA' WHICH I COMPLIED BY LOWERING MY CAMERA. HOWEVER, THE POLICE OFFICERS DID NOT SEEM SATISFIED, SO I BEGAN TO SEARCH MY POCKET FOR MY LENS CAP. AT THIS TIME, THE POLICE OFFICERS CAME TO ME AND SEIZED MY CAMERA AND MY MEDIA ACCREDITATION TAG - ONE ISSUED BY MY EMPLOYER (MALAYSIKINI) AND ONE ISSUED BY THE MINISTRY OF INFORMATION. MY VOICE RECORDER AND MY HAT FELL TO THE GROUND AT THIS TIME. THE VOICE RECORDER WAS PROMPTLY RETURNED TO ME WITH THE BATTERY AND BATTERY COVER MISSING. WHILST I WAS NOT ALLOWED TO RECOVER MY HAT, I WAS DRAGGED BY MY BACKPACK HANDLE ALONG JALAN RAJA, WHERE I WAS HIT IN THE STOMACH WHILE CROSSING A HUMAN-WALL OF POLICE OFFICERS. IN ADDITION, WHEN I ASKED THE OFFICER DRAGGING ME WHETHER I WAS BEING ARRESTED, HE DID NOT RESPOND. I WAS HELD WITH OTHER BERSIH DETAINEES OUTSIDE THE ROYAL SELANGOR CLUB UNTIL ABOUT 7PM. WHILE I WAS BEING HELD, I WAS ABLE TO NEGOTIATE THE RETURN OF MY MEDIA ACCREDITATION TAGS, IN EXCHANGE FOR HANDING IN MY IDENTITY CARD TO A POLICE OFFICER WHO WAS COLLECTING THE CARDS. ANOTHER POLICE OFFICER IN PLAINCLOTHES THEN CAME TO RETURN THE CAMERA. HE INTRODUCED HIMSELF AS AN INSPECTOR, AND TOLD ME MY CAMERA'S MEMORY CARD HAD BEEN CONFISCATED AS EVIDENCE. HOWEVER, HE DID NOT PROVIDE ME WITH ANY RECEIPT OR ANY FORM OF DOCUMENTATION. I WAS THEN BROUGHT TO THE POLICE TRAINING CENTRE (PULAPOL) ALONG JALAN SEMARAK BY A POLICE BUS WITH OTHER DETAINEES. UPON DISEMBARKING FROM THE BUS, SEVERAL POLICE OFFICERS SPOTTED MY MEDIA ACCREDITATION TAG AND REFERRED ME TO DEPUTY SUPERINTENDANT ISMAIL, WHO THEN ORDERED FOR MY IDENTITY CARD TO BE RETURNED AND THAT I SHOULD BE RELEASED, BECAUSE IT WAS 'SILAR TANGKAP'. HOWEVER, TRANSPORT WAS PROVIDED TO RETURN ME TO WHERE I WAS DETAINED, AND I WAS FORCED TO ASK FOR DIRECTIONS FROM AT LEAST THREE POLICE OFFICERS TO FIND MY WAY OUT. WHERE I LATER HAILED A TAXI TO SEND ME HOME.

Exhibit 37: Police report dated 29 April 2012 lodged by W16 at Dang Wangi Police Station

²⁶ Koh Jui Lin, W16, a reporter and photograprer for Malaysiakini.com, a political news website

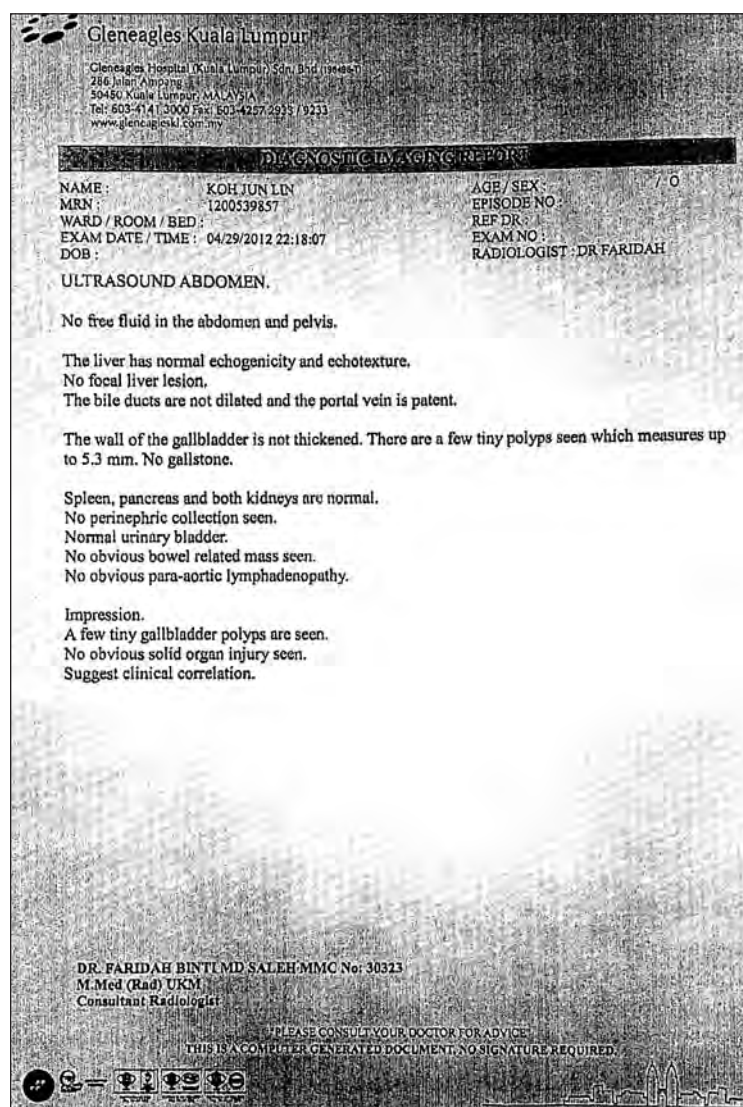


Exhibit 38: W16's medical report from Gleneagles
Hospital, Kuala Lumpur

- 3.36 Earlier, W16 was taken to a spot with a group of media personnel and ordered to stay 20-30 meters behind the line assembled by the police at the intersection of Jalan Raja and Jalan Parlimen. According to W16, from that spot, they were not able to see very much what was happening around them.
- 3.37 Mohd Radzi Abdul Razak (W17),²⁷ a reporter, testified that he was attacked and injured by a group of 7-8 police personnel. Although he identified himself as being from the media, they kicked him in his stomach. At the time of the incident, he was sitting down on the sidewalk. The assault caused him to fall backwards, whereupon

²⁷ Mohd Radzi Abdul Razak, W17, is a reporter with *The Sun*.

the group of police personnel surrounded him and carried on kicking and stomping on him. The assault continued for about one minute even as he shouted that he was from the media. At that time he was wearing his media tag. W17 had bruises all over his body and his head hurt from being hit. He felt nauseous and dizzy from the attack. When he was brought to the paramedics, they told him to stay conscious. As a result of the blows, W17 suffered from multiple bruises and broken ribs (**Exhibit 39**).

- 3.38 Mohd Radzi Abdul Razak (W17) also saw a man who was taking photographs using his mobile phone being pulled aside by the police and instructed to delete the photographs. He witnessed a reporter with *Malaysiakini* by the name of Nigel Aw who was asked to stop taking photographs.
- 3.39 While at the hospital,²⁸ W17 said that his editors and friends faced some difficulties in trying to see him; a police personnel stationed outside the emergency ward refused them entry. The Prime Minister visited W17 at the hospital,²⁹ apologised to him and gave his word that PDRM would look into the matter of his injuries.
- 3.40 Puspanathan a/l Periannan (W20)³⁰ witnessed a group of police chasing a group of participants at about 6.00 to 6.30 pm at Masjid Jamek. Earlier, the police had ordered the crowd to disperse with the words, "*Tolong bersurai*"³¹ using a loudhailer. Those who were caught were beaten up. W20 took photographs of the incidents that were happening around him, including this incident. One police personnel went up to him and told him, "*Tak boleh ambik*."³² The police who uttered those words wore a uniform, and with him were 4-5 other police personnel in plain clothes. They requested him to give up his camera and memory card, to which he refused. They grabbed his camera by the strap but W20 refused to surrender at which point the police let go. The police then asked W20 to delete the photographs and, to ensure that the photographs had in fact been deleted, he was ordered to repeat the procedure twice. Although W20 informed the police that he was from the media and showed his media identification card, the police insisted that he delete the photographs.
- 3.41 Suhaimi bin Suratman (W8) testified that while being detained at Royal Selangor Club, there was a female Chinese journalist who was also detained, and when she requested for a visit to the washroom to change her sanitary pad, it was denied.

²⁸ W17 was sent to Hospital Kuala Lumpur by the medical team before being sent to Assunta Hospital later.

²⁹ Wartawan dakwa dipukul polis, Najib minta maaf. <http://www.malaysiakini.com/news/196436>

³⁰ Puspanathan a/l Periannan, W20 is a photographer with *The Star* newspaper.

³¹ "Please disperse"

³² "No photographs allowed"

Testimonies from Injured Policemen

- 3.42 Lance Corporal Abu Bakar bin Abdul Rahman (W43) testified that at or around 4.00 pm he received information that a police personnel was being beaten near the SOGO Building and was directed to proceed to that area to render assistance. Upon reaching the area, W43 saw an overturned police car and about 100-200 persons around the area. He also saw the injured police personnel in the ambulance. When he turned to make his way to the overturned car for a final check, he was punched in his face. When he rode his bike away, the participants threw bottles at him. As a result, he suffered bruises to his right eye, lips and broken teeth. **(Exhibit 64).**

POLIS DIRAJA MALAYSIA		REPOT POLIS	
Balai Diambil	: CHERAS		
Daerah Diambil	: CHERAS		
Kontinjen Diambil	: KUALA LUMPUR		
No Repot	: DANG WANGI/016845/12		
Tarikh	: 28/04/2012		
Waktu	: 19:58		
Bahasa Diterima	: B. Malaysia		
Butir-butir Penerima Repot :			
Nama	: MOHD AZHAR BIN ISMAIL	No Personel	: R148376
		Pangkat	: KONST/P
Butir-butir Jurubahasa (Jika Ada) :			
Nama	: —	No K/P (Baru)	: —
No Paspot	: —	Bahasa Asal	: —
Alamat	: —		
Butir-butir Pengadu :			
Nama	: ABU BAKAR BIN ABDUL RAHMAN		
No. K/P (Baru)	: —	No Polis/Tentera	: R/141269
No Sijil Beranak	: —	Jantina	: Lelaki
Umur	: 31 Tahun 5 Bulan	Keturunan	: Melayu
Pekerjaan	: POLIS		
Alamat Tinggal	: 11A-T13-U05 APT FASA 11 PRESINT 9 PUTRAJAYA.	No Paspot	: —
Alamat IbuBapa	: —	Tarikh Lahir	: 02/11/1980
Alamat Pejabat	: CAWANGAN TRAFIK IPD PUTRAJAYA.	Warganegara	: Malaysia
No Tel(Rumah)	: —	No Tel(Pejabat)	: —
		No Tel(Bimbit)	: 012-9208138
Pengadu Menyatakan :			
PADA 28/4/2012 JAM L/KURANG 1555 HRS SEMASA SAYA BERTUGAS DI OPS AMAN (PERHIMPUNAN BERSIH 3.0) DIHADAPAN KOMPLEKS MAJU JUNCTION TERIMA MAKLUMAT MELALUI WALKIE TALKIE MEMBERITAHU SEORANG ANGGOTA KENA PUKUL DIHADAPAN SOGO K.L. KEMUDIAN SAYA DAN BEBERAPA ANGGOTA TRAFIK BERHAMPIRAN LOKASI TERSEBUT MENGHALA DAN MEMBERI BANTUAN.SETELAH SELESAI MEMBERI PERTOLONGAN KEATAS SEORANG ANGGOTA YANG DIPUKUL OLEH PESERTA PERHIMPUNAN TERSEBUT,SAYA DITUMBUK BEBERAPA KALI(PADA BAHAGIAN BIBIR ATAS SEBELAH KANAN,PIPI SEBELAH KANAN DAN BEBERPA DI BAHAGIAN BADAN) OLEH SEORANG LELAKI YANG TIDAK DIKENALI SEMASA BERJALAN MENUJU KE M/SIKAL PASUKAN HONDA ST 1300 NOMBOR PENDAFTARAN WSF 932,OLEH KERANA PESERTA TERSEBUT TERLALU RAMAI SAYA TELAH DIBALING BOTOL SERTA DI SEPAK TERAJANG BEBERAPA KALI OLEH MEREKA SERTA DIMAKI HAMUN KETIKA MENUNGGANG M/SIKAL MENUJU KE SUSUR Y (JALAN SULTAN ISMAIL).KEROSAKKAN M/SIKAL SAYA DI BAHAGIAN CERMIN SISI SEBELAH KANAN DAN KIRI PECAH,BESI BAR KRI DAN KANAN BENGKOK DAN LAIN LAIN KEROSAKKAN BELUM DIPASTIKAN,SAYA MENERIMA RAWATAN LANJUT DI PPUKM CHERAS K.L.SEKIAN LAPORAN SAYA.			
Salinan Tidak Boleh Digunakan Untuk Tuntutan Atau Perbicaraan di Mahkamah (Hanya Untuk Kegunaan Dalam PDRM Sahaja)			
https://10.1.1.55/prs/eoffice/eo_viewpol55_sangkut.asp?printmorepot=DANG WANGI/... 8/11/2012			

Exhibit 64: Police report dated 28 April 2012 lodged
by W43 at Cheras Police Station

- 3.43 A few witnesses including Superintendent Zahari Bin Hj Mohd Yusoff (W23), ASP Ahmad Jais bin Ujang (W28), Inspector Norazmee bin Mohamed (W29) and ASP Mohd Akmal bin Abdullah (W44) also testified that they saw some provocation carried out that day. There were incidences where the police and the participants taunted and provoked each other, either verbally or physically by throwing objects at each other. These objects included slippers, mineral bottles, rocks, stones, shoes. **(ID 11)**
- 3.44 Karam Singh a/l Charan Singh (W14) was informed by the police while inside the A&W restaurant that 'it is because of you people, a policeman was killed'. Chen Shaua Fui (W15), a journalist, was also informed of the same by the police while being physically manhandled.

Other Human Rights Violations

Testimony from Uniformed Corp and Medical Personnel

- 3.45 Khairul Anuar bin Pawanchik (W3) recalled that while he was on duty as a volunteer of St. John's Ambulance, he witnessed a group of about 30 traffic police personnel riding their motorcycles against the traffic along Jalan Raja Laut behind Bangunan MARA. He saw one of the traffic police riders standing up on his bike, and waving a gun in the air. The Panel subsequently watched a video **(ID 4)** and was referred to **(Exhibit 6(a))** which was submitted by the witness, which depicted the same group of traffic police to which he was referring.
- 3.46 According to Dr. Siti Makkiah binti Yunus (W42) many injured participants received treatment on that day. Many of the injuries were most likely caused by tear gas, canister (blunt object), and other physical objects.

Damage to Assets and Premises

- 3.47 Leong Siew Meng (W11) witnessed participants kicking the entrance doors of the LRT station, especially those trapped at the staircase of the station. However, he also observed that as tear gas was being fired around them, they had little option but to kick the doors to gain entry into the station.



Exhibit 6(a): Newspaper clipping from Suara Keadilan, 30 April 2012, with the caption saying "Even the traffic police was hitting participants".

Closure of LRT Stations

- 3.48 Tuan Haji Kairani bin Mohamed (W41)³³ testified that on 28 April, the LRT was operating as usual, even though they knew that a public assembly was taking place that day. According to W41, the LRT operator had had experience in handling large crowds such as those attending concerts or football matches, and that they were well prepared to manage large crowds. In fact, their revenues on such days are usually excellent, and it was the same for 28 April 2012 up until he closed the station at 3.00 pm.

³³ W41 is the Group Director of the Rail Division, Syarikat Prasarana Negara Berhad

- 3.49 Tuan Haji Kairani bin Mohamed (W41) stated that the decision to close down the Masjid Jamek LRT station was based on their Code Romeo (Riot or Civil Disturbance) (**Exhibit 62(b)**). Section 10.10.1 of the Code states that the Field Operations personnel should be prepared to close stations, if necessary. The station at Masjid Jamek was closed at 3.00 pm until 5.30 pm to ensure the security of the passengers and their staff, as well as to safeguard the property of the company. W41 stated that the CCTV showed that the situation at the station was becoming uncontrollable and therefore the order for the shutdown was given. However, upon questioning by the BERSIH observers, W41 agreed that the staff could have been better prepared by being equipped with gas masks, thus obviating the need to shut down the LRT stations.

Rangkaian Pengangkutan Integrasi Deras Sdn. Bhd.		Revision: 01	
Effective Date: 1 January 2010		Revision Date: 31 May 2009	
EMERGENCY RESPONSE PLAN			
Abbreviations, Common Terms and Definition			
Rail Operations Division and Rail Engineering Division			
Prepared By:	Bukhari Mohamed	Approved By:	Nor Hassan Ismail
Position:	GMO	Position:	COO - Rail
		Page 80 of 109	

10.10 CODE ROMEO (RIOT OR CIVIL DISTURBANCE)

A disturbance such as a riot or demonstration can originate from: -

- Service failure or emergency causing a major delay
- Insufficient service available to meet demand
- Political or sports event
- Complaints about system operations
- Gang related incidents

10.10.1 CODE ROMEO – RESPONSE

If ANY employees witness a riot, civil disturbance or demonstration, following special action is required:

- Contact the OCC and give information according to A-L-A-R-M format i.e.
- Your name and location
- Location and approximate number of people involved
- Direction they are moving
- Mood of the group (are they violent or peaceful)
- Types of weapons; if any
- Any other information which would help the ERA with their response.

The OCC will declare a RED PAPA and contact the ERA. At least Level 3 response is required to attempt.

If the riot or civil disturbance is unrelated to service, the OCC and Station Operation personnel must determine the total area affected and halt service/close stations.

If the riot, civil disturbance or demonstration is in the vicinity of the Depot, the Security personnel must be informed.

- Use the CCTV to record as much of the event as possible
- All employees should be prepared for intrusions
- Field Operations personnel should be prepared to close stations if necessary.
- The OCC should be prepared for service revision (i.e. suspension of service at a given station(s) with turn back provision).

IMPORTANT: No working notes or alterations are allowed on any page of this manual.

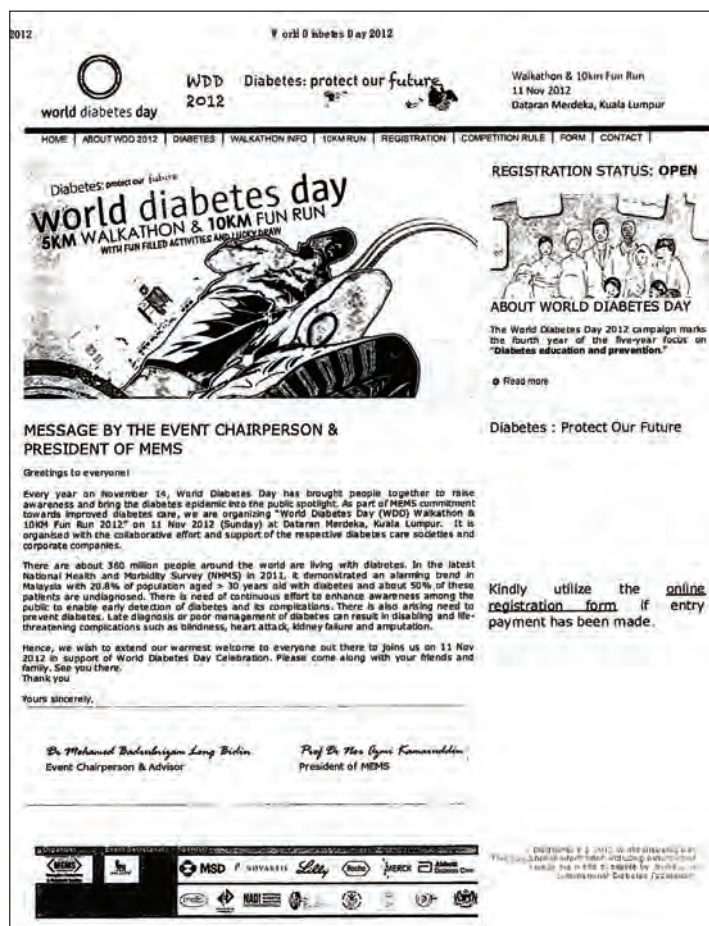
Exhibit 62(b): Section 10.10 of Syarikat Prasarana's Code Romeo
(Riot or Civil Disturbance)

- 3.50 The other stations which were also closed during the assembly were Dang Wangi, Pasar Seni (Kelana Jaya Line), Plaza Rakyat, Bandaraya and Sultan Ismail (Ampang Line). W41 ordered resumption of services at Masjid Jamek, Plaza Rakyat and Bandaraya at 5.30 pm upon his assessment that the situation was under control. However, the police ordered him to re-close the Masjid Jamek station.
- 3.51 Kunabal a/l K. Rajagopal (W1) was running away from the tear gas when he noticed that the LRT station in Central Market was closed down. He noticed many people gathered at and around the station; they were told that the trains were not functioning.

Dataran Merdeka as a Venue for Social Activities

- 3.52 According to Dato' Ambiga Sreenevasan (W48), DBKL had rejected the application from BERSIH 2.0 to hold the assembly at Dataran Merdeka. W48 stated that according to the by-laws, Dataran Merdeka could be used for the purposes of holding any "sport or game, public entertainment, public address, demonstration, or assembly, meeting, gathering for any campaign, trade promotion, political, religious or social activity or, any other activity."³⁴
- 3.53 In her testimony, W48 also enumerated a number of events that had been held at Dataran Merdeka, such as:
- (a) World Diabetes Day Walkathon & 10km Fun Run 2012 held on 11 November 2012; <http://www.wdd2012.com/> **(page 1 of Exhibit 66(b))**
 - (b) Olympic Day Fun Run 2012 held on 8 July 2012;
<http://www.mcdonalds.com.my/fitnessfun/olympicrun.asp>
(page 2 of exhibit 66(b))
 - (c) Team Malaysia Fan Run held on 17 June 2012;
<http://www.tm.com.my/teammalaysia/fanrun/pages/home.asp>
(page 3-8 of Exhibit 66(b))

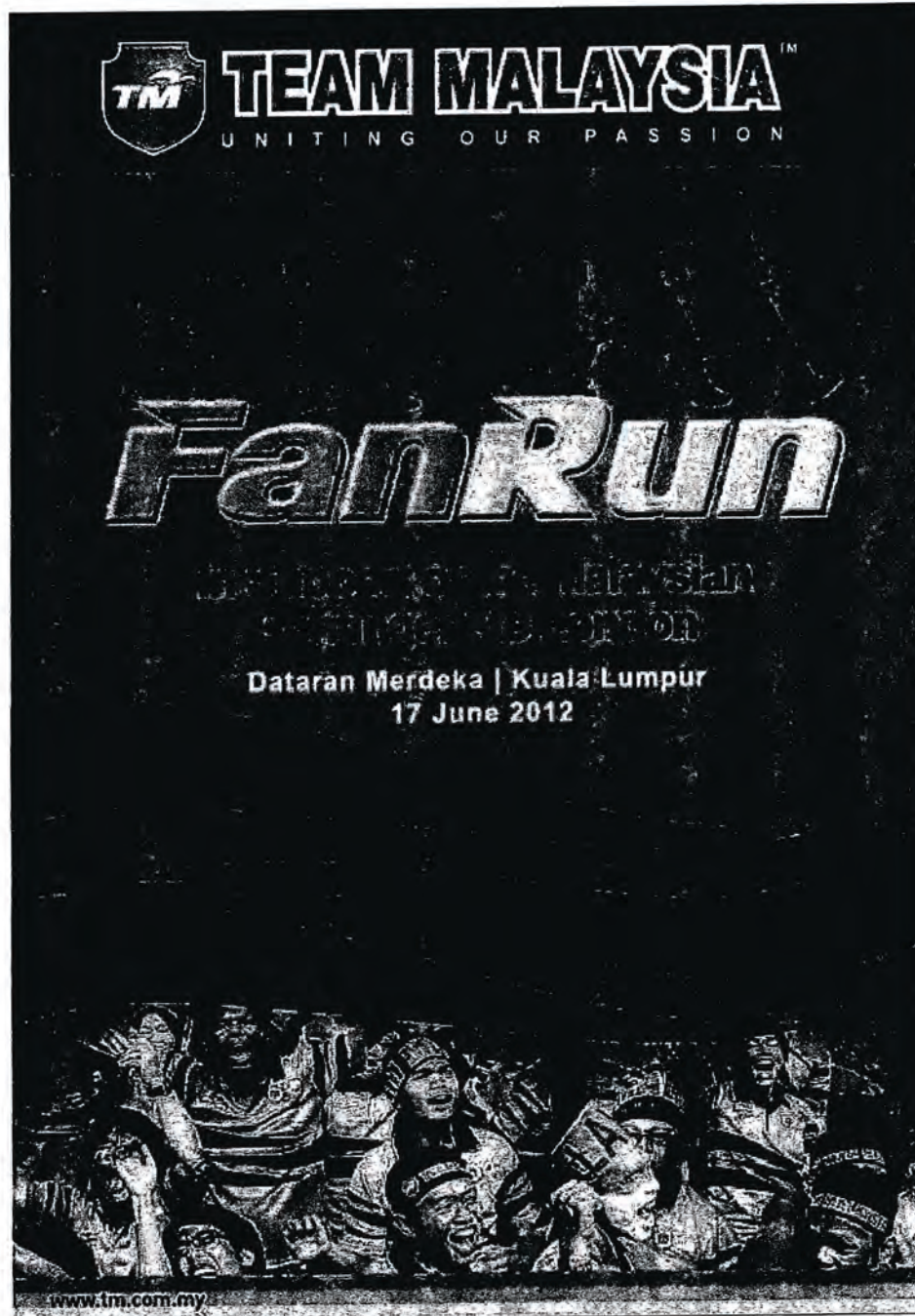
³⁴ By-law 8 of the Local Government (Dataran Merdeka) (Federal Territory of Kuala Lumpur) By-Laws 1992 (P.U.(A) 304/1992)



Page 1 of Exhibit 66(b) is a promotion page of the World Diabetes Day Walkathon & 10km Fun Run event which was held at Dataran Merdeka



Page 2 of Exhibit 66(b) is a promotion page of the Olympic Fun Run event which was held at Dataran Merdeka



Page 3 of Exhibit 66(b)
Promotion on Fun Run at Dataran Merdeka

Chapter 4

REPORT ON THE SITE VISITS BY THE PANEL OF INQUIRY

- 4.1 The Panel of Inquiry conducted two site visits, one to Dataran Merdeka and the surrounding areas where the assembly took place and the other to the *Kompleks Pasukan Simpanan Persekutuan Polis DiRaja Malaysia, Cheras*. On both visits, the Panel was accompanied by the Secretariat of the Inquiry, observers from PDRM, BERSIH 2.0 and the Bar Council as well as representatives from the media.

Site Visit to Dataran Merdeka and Its Vicinity

- 4.2 On 21 September 2012, the Panel visited Dataran Merdeka, Jalan Tun Perak, the Royal Selangor Club, Jalan Raja Laut, Masjid Jamek LRT Station, the areas around Masjid India, Citin Hotel and the DBKL Building. The purpose of the visit was to obtain a better picture of the main areas where the crowd had assembled during the rally and where the alleged acts of infringement of human rights had occurred such as Dataran Merdeka, Citin Hotel, DBKL Building and the Masjid Jamek LRT Station; and to determine the availability of pathways, corridors or exit routes for participants to disperse. The three-hour visit also allowed the Panel to have better understanding of the events that day by seeking clarifications and further explanation from the police officers and witnesses who were present.
- 4.3 The police officers described to the Panel the various locations where the participants assembled, the position of the barricades, where the police were stationed, and the holding area in front of the Royal Selangor Club. One of the journalist witnesses related to the Panel the chronology of the incidents that happened to him. The visit ended around 12 noon.

Site Visit at Kompleks Pasukan Simpanan Persekutuan Polis Diraja Malaysia Cheras

- 4.4 On 16 October 2012, the Panel of Inquiry visited Kompleks Pasukan Simpanan Persekutuan Polis DiRaja Malaysia, Cheras from 10.00 am to 1.00 pm. The purpose of the visit was to watch a demonstration of the firing of tear gas including the position or angle at which the tear gas is usually fired; to find out more about the procedures and chain of commands during a public assembly; and to conduct an inspection of the barbed wires, boot prints, firearms and shell used during the

assembly of 28 April. A briefing was also given on the use of water cannons. The briefing was led by ACP Jamaludin Abd Rahman and assisted by Superintendent Zahari bin Hj Mohd Yusoff (W23).

- 4.5 According to ACP Jamaludin, water cannon and tear gas would be fired from the FRU's command vehicle (CV) upon receiving the order from the officer in charge. He added that usually the police would use plain water first followed by chemical-laced water to disperse the crowd.³⁵ The water cannon should be fired at 180 degrees.
- 4.6 ACP Jamaludin then explained and demonstrated the use of tear gas. Before the firing of tear gas, a bell would be rung as a signal for the troops to stand by. Then, the yellow flag would be raised as a signal for the troops to start firing the tear gas. The officer in charge would direct the angle at which the tear gas was to be fired, that is, whether:

Upwards (45 degrees) – canister dropping range is 100m to 150m
Straight (90 degrees) – canister dropping range is 75m to 100m
Downwards (45 degrees) – canister dropping range is 20m to 30m.



ID 17 (g): Demonstration by the FRU on the use off tear gas guns from an upward angle (45 degrees)

³⁵ According to ACP Jamaludin, the quantity of chemical substance is 1 %.



ID 17 (h): Demonstration by the FRU on the use of tear gas guns
from a straight angle (90 degrees)



ID 17 (i): Demonstration by the FRU on the use of tear gas guns
from a downward angle (45 degrees)

- 4.7 ACP Jamaludin, however, said the police was shooting tear gas upwards during the assembly on 28 April 2012. A total of 909 tear gas canisters were shot on that day by the four FRU units over an interval of five hours.



ID 17(d): Used tear gas canister

- 4.8 Superintendent Zahari bin Hj Mohd Yusoff (W23) informed the Panel that the FRU officers also used tear gas hand grenades during the assembly. A total of 58 tear gas hand grenades were discharged on 28 April 2012. According to W23, the police normally used tear gas hand grenades in two situations: for self defence or where the protesters were very close to the police. He also asserted that warnings had to be given each time they fired water cannon and tear gas, in line with the standard operating procedure of the FRU.
- 4.9 Besides that, the Panel was also shown the complete attire of the FRU on duty at the assembly. All FRU officers wore blue-black uniforms, boots, vests, helmets and were equipped with hand shields.
- 4.10 The Panel was also briefed on the warning procedure during the assembly. According to ACP Jamaludin, the warning was given through their command vehicle and there were a few officers who brought the sound commander closer to the participants to ensure that the instructions were heard clearly. The warning *“bersurai serta-merta atau kami akan bertindak”* was given three times before the water cannons were fired. However, W23 mentioned that banners in multi-language were not used during the assembly.
- 4.11 The Panel also was informed that the barricades used during the assembly consisted of four layers namely barbed wires, water barricades, steel barricades,³⁶ followed by human barricades. According to W23, those barricades were placed at several areas with specific intervals as deemed appropriate.

³⁶ The water and steel barricades belonged to Dewan Bandaraya Kuala Lumpur.



ID 17(a): A sample of a barbed wire fence used by the FRU,
also used during the assembly on 28 April 2012

- 4.12 The Panel was shown the barbed wires used during the assembly. According to ACP Jamaludin, the barbed wires used were the normal razor blade barbed wires and that those wires were not harmful to public although they might cause minor injuries if not handled with care or according to procedures. The barbed wires installed the night before the assembly were about 2 feet high and 15 feet long. The Panel also were informed that the barbed wires could be removed only by experts.
- 4.13 During the visit also, Superintendent Zahari bin Hj Mohd Yusoff (W23) identified the locations of the barricades as follows:
- i. Jalan Tun Perak towards Bulatan Dato' Onn
 - ii. Jalan Leboh Pasar Besar (on the bridge)
 - iii. Bank Pembangunan at Jalan Hishamuddin
 - iv. Near the tunnel at Daya Bumi
 - v. Exit path to the Masjid Negara
 - vi. Along the road to Bukit Aman (near Masjid Negara)
 - vii. At the back of the Royal Selangor Club (near the Library and all the way to the restaurant).

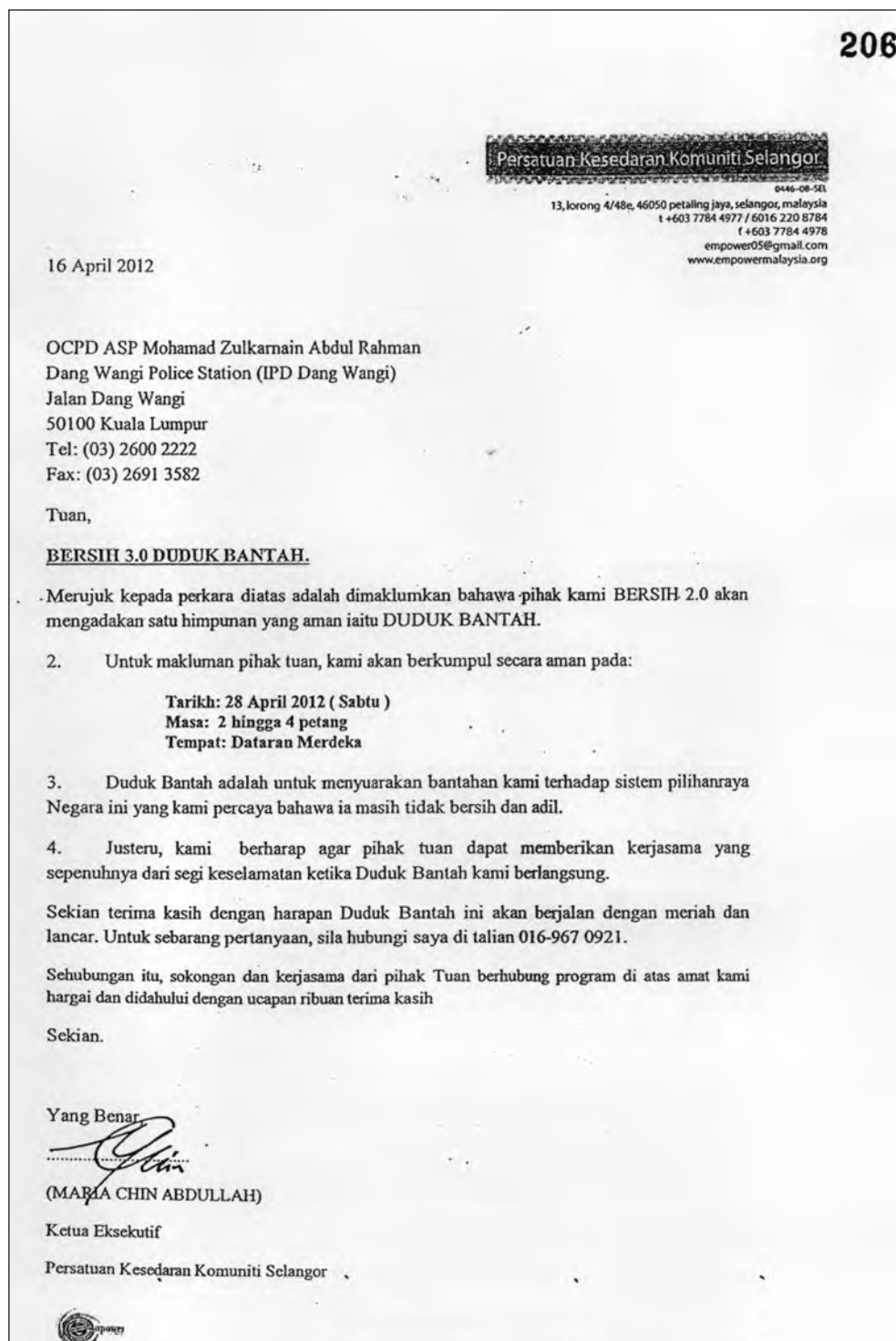
Chapter 5

FINDINGS BY THE PANEL OF INQUIRY

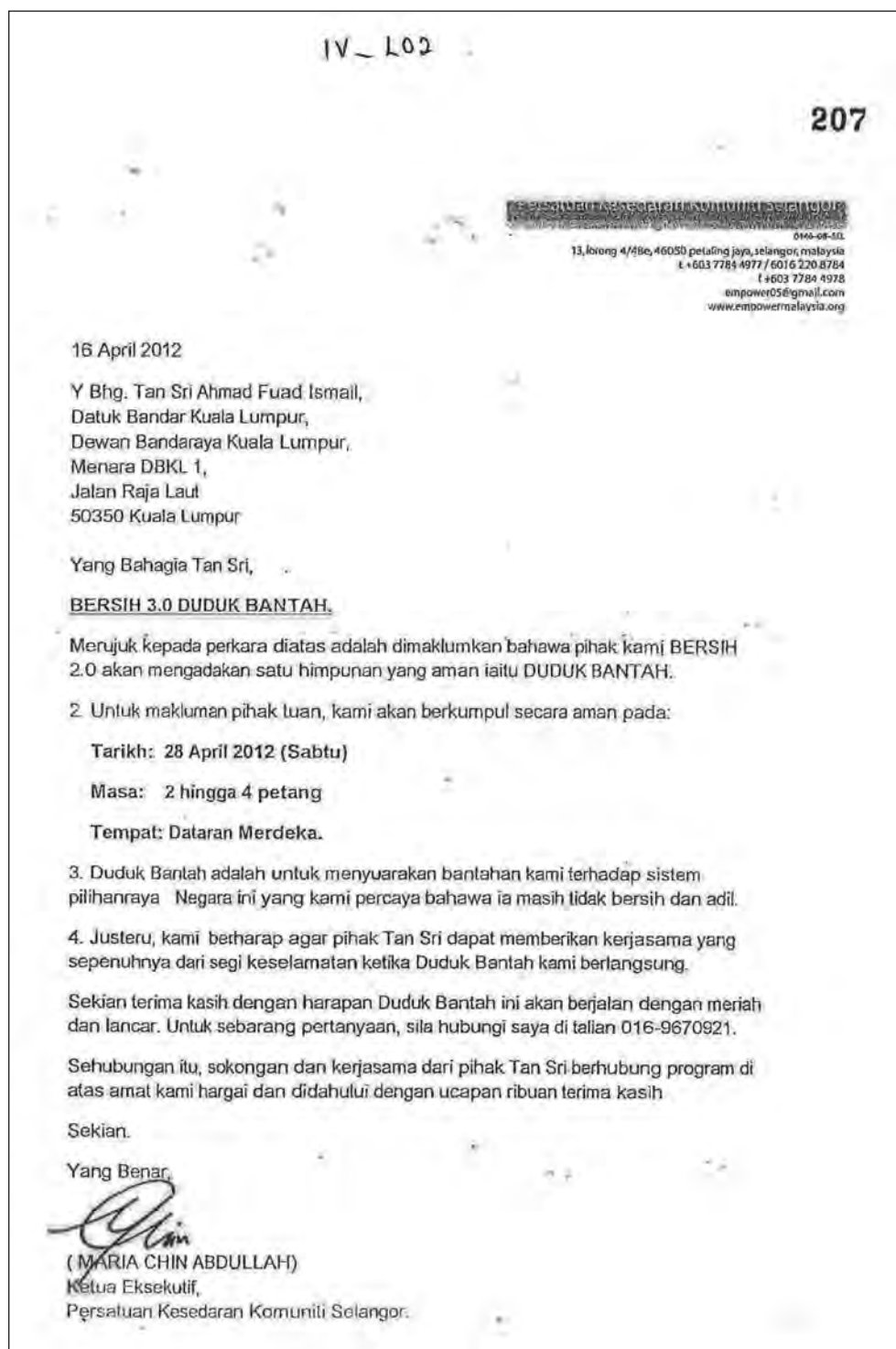
- 5.1 The Panel of Inquiry's findings are based on the testimonies of the witnesses, assisted by the questions and submissions from the observers and the exhibits tendered.

The Organiser

- 5.2 According to section 6(2)(f) of the Peaceful Assembly Act 2012 (PAA 2012), one of the responsibilities of any organiser of a peaceful assembly is to co-operate with the public authorities to ensure the orderly and lawful conduct of the assembly. Section 9(1) of the PAA 2012 also requires the organiser to submit notification to the Officer in Charge of the Police District (OCPD) ten days before the event. According to the testimony of Dato' Ambiga Sreenevasan (W48), BERSIH 2.0 had written to the OCPD of Dang Wangi via a letter dated 16 April 2012 (**Exhibit 66 (a)**), informing him of its intention to organise a peaceful assembly at Dataran Merdeka on 28 April 2012 and seeking his co-operation in ensuring a safe and peaceful assembly on that day. The organiser had also written a similar letter to DBKL (**page 206 of Exhibit 66(a)**), on 16 April 2012 notifying DBKL of its intention to hold the assembly at Dataran Merdeka.
- 5.3 The Panel notes that on 16 April, the date of the letter, the PAA 2012 had yet to be enforced. Accordingly, the question of whether notice or sufficient notice had been given as required by section 9(1) of the PAA 2012 does not arise. Suffice to say, however, that notice was given to the OCPD of the impending event but whether it was pursuant to now-repealed section 27 of the Police Act 1967 or section 9(1) of the PAA 2012 is not relevant for the purpose of this Inquiry.
- 5.4 The Panel takes note that in a letter dated 19 April 2012, DBKL rejected the request of the organiser to hold the assembly at Dataran Merdeka (**page 208 of Exhibit 66(a)**). No alternative venue was suggested in the said letter.



Page 206 of Exhibit 66(a): A letter dated 16 April 2012 from the organiser of BERSIH to OCPD Dang Wangi



Page 207 of Exhibit 66(a): A letter dated 16 April 2012 from the organiser of BERSIH to DBKL



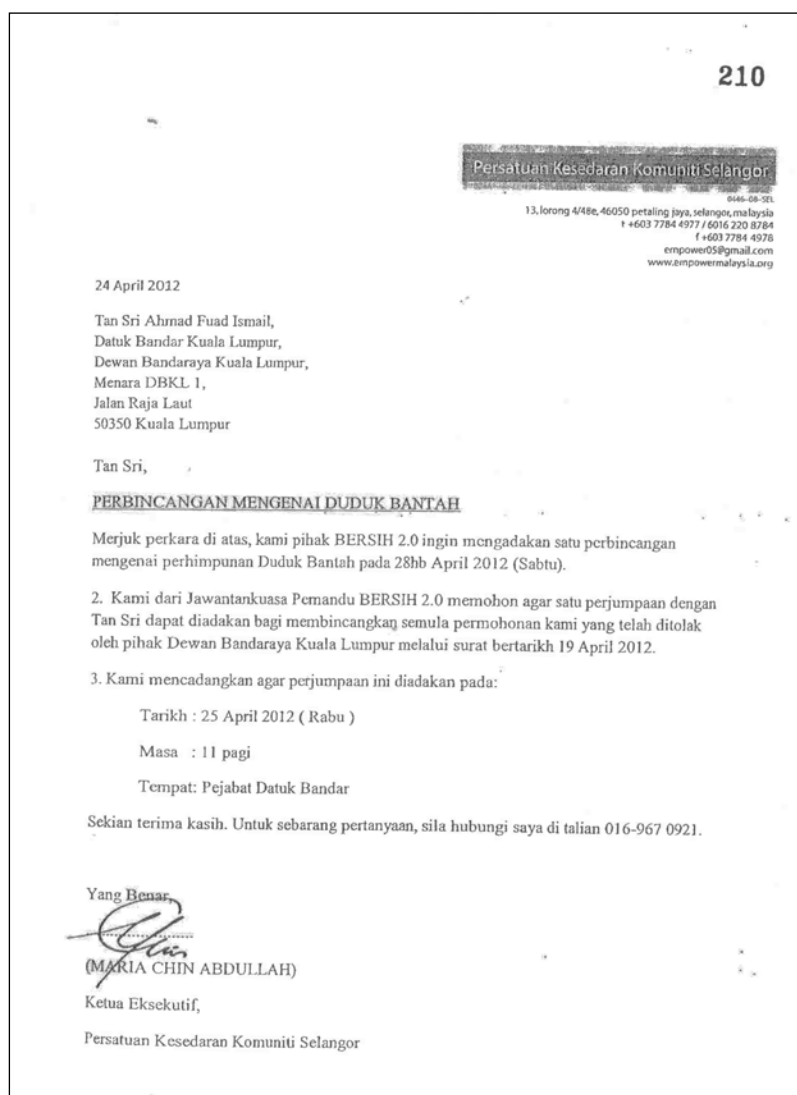
Page 208 of Exhibit 66(a): Letter dated 19 April 2012 from DBKL to the organiser of BERSIH 2.0

- 5.5 Meanwhile, the OCPD in a letter dated 23 April 2012, informed the organiser as follows: *"Dukacita dimaklumkan setelah membuat penelitian, saya selaku Ketua Polis Daerah Dang Wangi tidak meluluskan di atas keselamatan permohonan puan untuk menganjurkan acara sepertimana yang dipohon"* (page 209 of Exhibit 66(a)). [We regret to inform you that after review, I as the Officer in Charge of Police District Dang Wangi reject your application to hold the event applied for on the grounds of security]

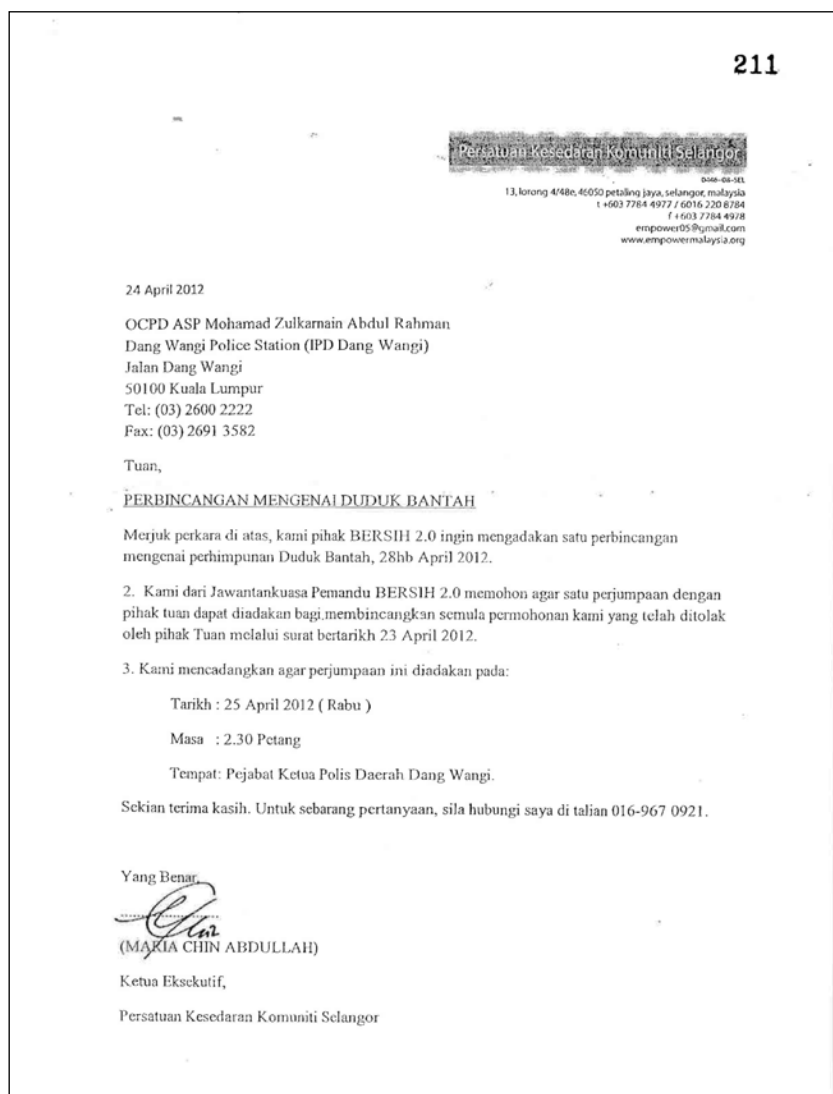


Page 209 of Exhibit 66(a): Letter dated 23 April 2012 from the OCPD of
Dang Wangi to the organiser of BERSIH 3.0

- 5.6 Again, the Panel notes that on 23 April, the PAA 2012 was brought into force, and therefore whether the approval of the OCPD to organise a public assembly was necessary is not relevant for the purpose of this Inquiry.
- 5.7 The Panel further notes that BERSIH 2.0 responded to DBKL and the police via letters dated 24 April 2012 (**pages 210 and 211 of Exhibit 66(a)**) and sought a meeting with them on 25 April 2012. DBKL agreed to meet with the organiser and according to Dato' Ambiga Sreenevasan (W48), during the meeting the Mayor suggested Stadium Merdeka as an alternative venue for the assembly on 28 April 2012. The suggestion however, was not accepted by the organiser due to the extremely short notice. The Panel takes note that there was no meeting between the OCPD and the organiser.



Page 210 of Exhibit 66(a): A letter dated 24 April 2012 from the organiser to DBKL requesting for a meeting



Page 211 of Exhibit 66(a): Letter dated 24 April 2012 from the organiser to
PDRM requesting for a meeting

Installation of Barricades

- 5.8 The Panel finds that steel barricades were installed around the perimeters of Dataran Merdeka pursuant to the Court Order of 26 April. As the Court Order is the subject matter of a court proceeding at the time of the Inquiry, and as enjoined by section 12(2)(a) of the Human Rights Commission of Malaysia Act 1999, the Panel makes no finding as to the legality or otherwise of the Order or its scope.
- 5.9 Barricades were also installed pursuant to the powers of police under section 26 of the Police Act 1967 at various other locations namely, Jalan Bunus, Jalan Masjid India, Leboh Pasar Besar and at the intersection of Jalan Raja and Jalan Parlimen.

These barricades were erected apparently to prevent the participants from entering and occupying Dataran Merdeka.

- 5.10 While the Panel makes no finding as to the legality or otherwise of the installation of the barricades, whether pursuant to the Court Order or section 26 of the Police Act, it does question, however, whether it was necessary to erect barricades that comprised three layers, namely, dannert wires, also known as concertina razor barbed wires, water-filled barriers and steel barriers. Although the police claimed that dannert wires were not harmful to the public, the Panel questions the use and suitability of such wires especially on an occasion and at places where large crowds were expected to congregate. The Panel views with serious concern the admission of the police that if not handled properly or according to procedure, such wires could cause minor injuries (see Chapter 4, paragraph 4.12). In a situation where large crowds are expected to gather and emotions could run high, which could lead to untoward incidents, having barbed wires in the area could pose not just minor injuries but some serious dangers to the people gathered there. To expect laypersons to know how handle such wires properly or according to procedure and especially in such situations is surely not reasonable, more so, when the police asserted that such wires could only be removed by experts (see Chapter 4, paragraph 4.12). The Panel wonders whether PDRM was putting the protection of Dataran Merdeka over and above the safety of the people who were gathered in and around that area that day in exercise of their fundamental right of expression and freedom to assemble peaceably.

Before 3.00 pm

- 5.11 All the police personnel who were on duty on the day of the assembly were given a series of briefings prior to 28 April 2012. According to testimonies provided by the police personnel, all personnel and their troops were required to handle the assembly and participants using what was termed as the 3R 1C 1E approach (Restrain, Restrain, Restrain; Caution and Enforce).
- 5.12 The Panel finds that the number of participants was larger than the number of police on duty. According to Dato' Ambiga Sreenevasan (W48), there were approximately 250,000 participants at the assembly; whereas according to Dato' Mohmad bin Salleh (W49), the CPO, there were only 25,000-30,000 participants. Meanwhile, the PDRM submitted before the Panel that there were 3,000 police officers on duty that day. While the Panel makes no finding as to the actual number of participants, it is safe to conclude, based on the estimated figures given by the witnesses, that on the day of the assembly, the participants outnumbered the number of police personnel on duty.

5.13 Notwithstanding the number of participants, it is the Panel's finding, supported by testimonies from civilian as well as police witnesses that before 3.00 pm, the participants behaved, by and large, in a peaceful and calm manner, and that the atmosphere was carnival-like with many people singing, laughing and chatting.

Events after 3.00 pm

Dismantling of the Barricades

5.14 It is also the Panel's finding, again supported by testimonies, that there was a turn in the events approximately at or around 3.00 pm, which coincided with the dismantling of the barricades installed at the intersection of Jalan Raja and Jalan Parlimen by persons unknown to the Panel. According to YB Teresa Kok Suh Sim (W47), she was informed by DBKL officers that the FRU was ready to take action to disperse the crowd at approximately 3.00 pm, which it did.

5.15 The Panel makes no finding as to whether the firing of the water cannon and tear gas by the police at or around 3.00 pm was pre-meditated. Suffice to say that it was after that the dismantling of the barricades at the Jalan Raja and Jalan Parlimen intersection that the FRU started to take action to disperse the participants by the use of water cannon and tear gas.

The Issuance of Warning

5.16 The Panel finds that the FRU gave the warning to the participants to disperse only before the initial firing of the water cannon and the tear gas but none thereafter.

5.17 The Panel finds that the first warning given by the FRU could not be heard by the participants. According to ACP Jamaludin, the warning and command given by the FRU was via a loud speaker and sound commanders, yet it could not be heard by all the participants. This finding was supported by the testimonies of Kunabal a/l K. Rajagopal (W1), Chong Min Shih (W4) and Mohd Radzi bin Abd Razak (W17).

5.18 According to Superintendent Zahari bin Hj. Mohd Yusoff (W23), banners should have been used to warn the participants in cases involving crowds as huge as the one on 28 April. However, the Panel was informed that the police could not use the banners on that day because of inaccuracies in the wordings on the banners.

5.19 The Panel finds that contrary to popular belief, the ringing of the bells by the FRU does not serve as a warning to the participants; rather it is a signal for the FRU personnel to be on stand by before firing the water cannon and tear gas.

- 5.20 The Panel was informed that the police fired chemical-laced water, 909 tear gas and 58 tear gas hand grenades that day.
- 5.21 According to witnesses, when the water cannon and tear gas were fired, they were not able to disperse because there were no exit or access routes available to them. From its site visit, the Panel observed that there were a number of lanes and alleys off Jalan Tun Perak and Jalan Tuanku Abdul Rahman, but these were narrow and in certain places, made narrower by the presence of temporary building structures. The sheer size of the crowd as well as repeated shots of tear gas towards the crowd also made it difficult and almost impossible for the participants to disperse in an orderly, safe and timely manner. They were unable to disperse immediately and had to move slowly to avoid any incidents especially stampedes.
- 5.22 Reportedly, some roads were also cordoned off, and there was little or limited movement of traffic, including public transport, because of road closures in and around the city by the authorities. Several LRT stations in the area were also shut down from 3.00 pm to 5.30 pm.
- 5.23 Based on the testimony of Hanif bin Ahmad Zainuddin (W9), the participants failed to disperse and leave the assembly area immediately as most of the roads were cordoned off by the police. The LRT stations were also closed. The station at Masjid Jamek was closed from 3.00 pm until 5.30 pm. The other stations which were also closed during the assembly were Dang Wangi, Pasar Seni (Kelana Jaya Line), Plaza Rakyat, Bandaraya and Sultan Ismail (Ampang Line).
- 5.24 The Panel finds that on one occasion, participants were “kettled” at Jalan Melayu. According to Christopher Leong Sau Foo (W40), the participants on Jalan Melayu were trapped as there was another crowd converging from the opposite direction of that road. W40 informed the Panel that tear gas was being shot from both ends of the road and people could not move resulting in them being trapped there. W40 further testified that he saw about 20-30 police personnel at a police beat in that area but they did not do anything to direct the participants or facilitate their movement.
- 5.25 The Panel is of the view that PDRM should have taken into serious consideration, among other things, the size of the crowd, the physical location, the layout of the place, and the availability of exit routes, before taking action to disperse the crowd after 3.00 pm. Given those factors, it would have been impossible for the participants to disperse safely and orderly without giving them reasonable time to do so.
- 5.26 It is also a finding of the Panel that the police did not assist or facilitate the dispersal of the participants. The continuous firing of the water cannon and tear gas also hampered their efforts to disperse, and resulting in at least one instance, the “kettling” of the participants.

Process of Arrest and use of Disproportionate Force

- 5.27 The Panel is of the view, based on the testimonies of the witnesses as well as video recordings, that there was use of disproportionate force and misconduct by the police towards the participants.
- 5.28 Arshad bin Abbas (W5), Kumar Suppiah (W6), Asrul Wadi bin Ahmad (W13), Koh Jun Lin (W16) and Mohd Radzi bin Abdul Razak (W17) testified that they were violently assaulted by police personnel. Chong Min Shih (W4), W5 (W5 did not produce a medical report), Low Kok Swee Adrian (W7), W13 and W16 also suffered injuries. The Panel accepts the testimonies that the injuries to W5, W7, W13 and W16 occurred in the course of their arrests.
- 5.29 The Panel is not able to identify who caused the injury suffered by Chong Min Shih (W4). However, the shape and size of the injury would appear to be consistent with an impact from a tear gas canister. This was later confirmed during the site visit to the *Kompleks Pasukan Simpanan Persekutuan Polis DiRaja Malaysia, Cheras* where the Panel examined a tear gas canister. Therefore, the Panel believes that the injury sustained by W4 was caused by a tear gas canister which could only have been fired by a member of the FRU unit, although the Panel is not able to identify the personnel concerned.
- 5.30 Based on the testimony of Baharudin bin Hashim (W2), he was strangled, kicked, punched and dragged by police personnel officers when he was taken to the holding area in Dataran Merdeka but eventually, he was released. W2 tendered as supporting evidence a police report lodged by him. **(Exhibit 4)**
- 5.31 Arshad bin Abbas (W5) was hit, punched and kicked on his whole body by police personnel in operational uniform. As a result, he received 5 stitches on the right eyebrow. W5 tendered as supporting evidence a police report lodged by him. **(Exhibit 14)**
- 5.32 Kumar Suppiah (W6) testified that a group of police personnel including personnel from DBKL assaulted him. He was slapped, stomped on his back, dragged and slammed against the glass wall in the ATM room at the DBKL building. He then was pulled out from the ATM room where the police personnel continued kicking and stomping on him. They also verbally abused him with derogatory remarks. W6 also tendered as supporting evidence a police report lodged by him. **(Exhibit 17)**
- 5.33 The Panel also finds that most participants were assaulted along the way to the holding area at Dataran Merdeka or more specifically, near the Royal Selangor Club, even though there was no evidence that they were resisting arrest or behaving aggressively. The Panel finds it particularly disturbing that some of them were assaulted not by the police personnel effecting the arrest but by other

police personnel who happened to be stationed along the way to the holding area. The police personnel also appeared to be acting in groups. The Panel questions the necessity for such assaults and abuse when there was no evidence of any resistance or violence on the part of those arrested. In the absence of any evidence to the contrary, and while the Panel is aware of the power of the police to use all reasonable force in order to effect arrest and disperse the participants in a public assembly, the Panel finds that disproportionate force was used to effect the arrest of those witnesses, as well as after their arrests, resulting in injuries to them. These findings were confirmed by the testimonies of W5, W21 and W30 as well as videos from both PDRM and the witnesses. (ID 11 & ID 12)

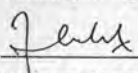
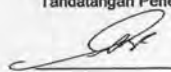
 POLIS DIRAJA MALAYSIA REPOT POLIS		
Balai	: PETALING JAYA	
Daerah	: PETALING JAYA	
Kontinjen	: SELANGOR	
No Repot	: DANG WANGI/017659/12	
Tarikh	: 04/05/2012	
Waktu	: 1519 PM	
Bahasa Diterima	: B. Malaysia	
Butir-butir Penerima Repot		
Nama :	NURHIDAYAH BT ABDULLAH	No Personel : R141735
Butir-butir Jurubahasa (Jika Ada)		Pangkat : KPL
Nama : —	No K/P (Baru) : —	No Polis/Tentera : —
No Pasport : —	Bahasa Asal : —	
Alamat : —		
Butir-butir Pengadu		
Nama :	BAHARUDIN BIN HASHIM	
No K/P (Baru) :	590510045173	No Polis/Tentera : —
No Sijil Beranak : —		No Pasport : —
Jantina :	Lelaki	Tarikh Lahir : 10/05/1959
Keturunan :	Melayu	Umur : 52 tahun 11 bulan
Pekerjaan :	PESARA	Warganegara : Malaysia
Alamat Tempat Tinggal : B-3-2 PPR TAMAN MUHIBBAH JALAN PUCHONG 58200 KL		
Alamat Ibu/Bapa : —		
Alamat Pejabat : —		
No Tel (Rumah) : —	No Tel (Pejabat) : —	No Tel (HP) : 018-2195758
Pengadu Menyatakan:-		
Saya Baharudin Bin Hashim, Kad Pengenalan No: 590510045173. Saya ingin membuat laporan polis terhadap salah laku dan keganasan pihak Polis terhadap saya. Pada 28 April 2012, lebih kurang pada jam 6:00 petang saya berada di hadapan Bangunan Wisma Kraftangan KL. Ketika polis menembak gas pemedih mata keadaan menjadi kelam kabut, saya melihat ramai peserta himpunan Bersih 3.0 bertemparan lari menyelamatkan diri. Pada masa itu saya terus duduk ditepi pejalan kaki kerana tidak mahu terlibat dalam kejar mengejar. Saya mahu cepat pulang kerumah tetapi semua jalan masuk ke stesen LRT telah di tutup dan saya cuba menalipon keluarga saya tetapi tidak dapat dihubungi. Pada masa itu beberapa orang polis telah menuju ke arah saya dan terus mengheret saya dileher sambil menumbuk dikepala dan badan saya. Saya merayu kepada polis yang mengheret dan menendang saya supaya melepas saya tetapi mereka terus mengheret saya memukul dan tendang secara bertalu talu. Saya diheret dileher sepanjang 100 meter untuk dibawa masuk ke dalam trak polis di belakang kelab Selangor. Saya rasa apa yang dilakukan terhadap saya adalah tidak adil langsung. sebagai seorang warganegara yang sepatutnya di jaga, tetapi dianai oleh polis. Saya menuntut dan mendesak satu siasatan bebas dijalankan oleh satu pasukan polis bebas daripada pasukan Bukit Aman.		
Tandatangan Pengadu:	Tandatangan Jurubahasa (Jika ada) :	Tandatangan Penerima Repot:
		
Salinan Repot Pertama		

Exhibit 4: Police report dated 30 April 2012 lodged by W6
at Dang Wangi police station

Salinan Repot Polis Muka 1 daripada 1

 **POLIS DIRAJA MALAYSIA**
REPOT POLIS

Balai : JLN DANG WANGI
Daerah : DANG WANGI
Kontinjen : KUALA LUMPUR
No Repot : THSL/015202/12
Tarikh : 29/04/2012
Waktu : 1830 PM
Bahasa Diterima : B. Malaysia

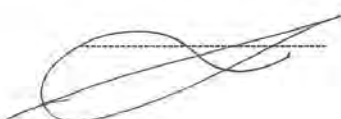
Butir-butir Penerima Repot
Nama : ABDUL AZIZ B MANAP No Personel : R139383 Pangkat : L/KPL
Butir-butir Jurubahasa (Jika Ada)
Nama : --- No K/P (Baru) : --- No Polis/Tentera : ---
No Paspot : --- Bahasa Asal : ---
Alamat : ---

Butir-butir Pengadu
Nama : ARSHAD BIN ABBAS
No K/P (Baru) : 800322085613 No Polis/Tentera : --- No Paspot : ---
No Sijil Beranak : ---
Jantina : Lelaki Tarikh Lahir : 22/03/1980 Umur : 32 tahun 1 bulan
Keturunan : Melayu Warganegara : Malaysia
Pekerjaan : CUSTOMER SERVIS ASTRO

Alamat Tempat Tinggal : D-7-6 SERI SERI SENTOSA AVENUE COURT JALAN TAMAN SERI SENTOSA 58000 KL.
Alamat Ibu/Bapa : ---
Alamat Pejabat : ---
No Tel (Rumah) : --- No Tel (Pejabat) : --- No Tel (HP) : 0123554111

Pengadu Menyatakan:-
PADA 28/04/2012 JAM LEBIH KURANG 1700HRS MENGIKUTI PERHIMPUNAN BERSIH 3.0 KETIKA KEJADIAN SAYA BERADA DI MASJID JAMEK SAYA TELAH DI TAHAN OLEH LEBIH KURANG (8) ORANG ANGGOTA POLIS BEPAKAIAN UNIFORM DAN DI BAWA KE DATARAN MERDEKA MEREKA TELAH MENYIKU, MENUMBUK, DAN DITENDANG DI BAHAGIAN PEHA, KAKI PERUT, BADAN DAN BAHAGIAN MUKA, SAYA MENGALAMI KEGEDERAAN DI BAHAGIAN MUKA, BADAN DAN KAKI DAN MENDAPAT (6) JAHITAN DI KENING. SAYA DI BAWA DENGAN MENAIKI TRAK POLIS KE PULAPOL. SEMASA KEJADIAN BARANG-BARANG MILIK SAYA JUGA DI RAMPAS OLEH PIHAK POLIS. BARANG-BARANG MILIK SAYA,
1) HANDPHONE JENIS SAMSUNG 7.7
2) JAM JENAMA GUESS.
TUJUAN LAPORAN DI BUAT UNTUK RUJUKAN PIHAK SUHAKAM DAN MAJLIS PEGUAM.
SEKIAN LAPORAN SAYA.

Tandatangan Pengadu: Tandatangan Jurubahasa (Jika ada): Tandatangan Penerima Repot:

Salinan Repot Pertama

Exhibit 17: Police report dated 30 April 2012 lodged by W6
at Dang Wangi police station

- 5.34 Hee Jenn Wei (W21) testified that the arresting police personnel held him by his shoulders, punched him on his back, pulled him out from the hotel, and brought him to Dataran Merdeka. W21 tendered as supporting evidence a police report lodged by him. **(Exhibit 41)**

W21 exhibit 41



POLIS DIRAJA MALAYSIA

REPOT POLIS

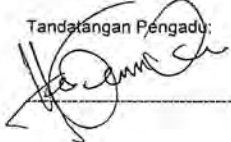
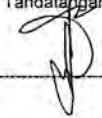
Balai : DAMANSARA
 Daerah : PETALING JAYA
 Kontinjen : SELANGOR
 No Repot : DANG WANGI/016944/12
 Tarikh : 29/04/2012
 Waktu : 1455 PM
 Bahasa Diterima : B. Malaysia

Butir-butir Penerima Repot
 Nama : NORHIDAYAH BINTI REBOH
 Butir-butir Jurubahasa (Jika Ada)
 Nama : ---
 No Pasport : ---
 Alamat : ---

Butir-butir Pengadu
 Nama : HEE JENN WEI
 No K/P (Baru) : 870619065561
 No Sijil Beranak : ---
 Jantina : Lelaki
 Keturunan : Cina
 Pekerjaan : MARKETING
 Alamat Tempat Tinggal : 6, JLN LP 3/6 TMN LESTARI PERDANA 43000 SERI KEMBANGAN
 Alamat Ibu/Bapa : ---
 Alamat Pejabat : ---
 No Tel (Rumah) : ---

No Polis/Tentera : ---
 Pangkat : L/KPL
 No K/P (Baru) : ---
 Bahasa Asas : ---
 No Polis/Tentera : ---
 No Pasport : ---
 Tarikh Lahir : 19/06/1987
 Warganegara : Malaysia
 Umur : 24 tahun 10 bulan

Pengadu Menyatakan:-
 I AM RESIDENT OF CITIN HOTEL, REFER BATCH BILL MID 000001312009194 A RECEIPT OF PAYMENT TO CITIN HOTEL. I STAY AT CITIN HOTEL STARTING ON FRIDAY NIGHT (27.04.2012) TO SATURDAY (28.04/2012) PRIOR TO EVENT BERSIH 3.0 (28.04.2012) AT MASJID JAMEK, FRU STARTED TO FIRE TEAR GASES AND WATER CANNON TO BERSIH PROTESTORS AT MASJID JAMEK AROUND 3PM, THINGS HAD GONE OUT OF HAND AS TEAR GASES ARE COMING FROM DIFFERENT SIDE OF THE STREET. I WAS THEN RETREAT TO CITIN HOTEL AROUND 3.30PM, STAY AT THE RESTAURANT IN CITIN HOTEL TO HAVE MY LUNCH, THE INSTANT I STARTED TO HAVE LUNCH, ONE POLICEMEN CAME AND POINTED HIS FINGER AT ME, STARTED TO SCREAM THAT HE WANTED TO ARREST ME. I ASKED WHY BECAUSE I'M A RESIDENT OF THE CITIN HOTEL, EVEN WHEN I SHOWED HIM MY RESIDENT CARD, HE INSISTED TO HAVE ME TAKEN AWAY. UPON EXITING THE CITIN HOTEL OF MASJID JAMEK AROUND 4PM, ONE OF THE POLICEMEN HIT ME ON THE LEFT OF MY HEAD, IT WAS SWOLLEN. THE SECURITY GUARD AT CITIN HOTEL WAS TELLING THE POLICEMEN NOT TO HIT ME AS I'M ONE OF THE RESIDENT OF CITIN HOTEL. I WAS THEN CARRIED AWAY FROM CITIN HOTEL TO DATARAN MERDEKA AND DETAINED AT PULAPOL, JALAN SEMARAK. RELEASED FROM PULAPOL AT 3AM 29.04.2012

Tandatangan Pengadu:  Tandatangan Jurubahasa (Jika ada): _____ Tandatangan Penerima Repot: 

<https://10.1.1.55/prs/cooffice/viewpol55real.asp?type=printedsalinan&salinan=ya&repid=2...> 4/29/2012

Exhibit 41: Police report dated 29 April 2012 lodged
at Damansara Police Station by W21

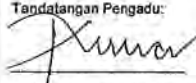
 POLIS DIRAJA MALAYSIA REPOT POLIS		
Balai	: JLN DANG WANGI	
Daerah	: DANG WANGI	
Kontinjen	: KUALA LUMPUR	
No Repot	: DANG WANGI/017059/12	
Tarikh	: 30/04/2012	
Waktu	: 1207 PM	
Bahasa Diterima	: B. Malaysia	
Butir-butir Penerima Repot Nama : NURUL ATIKA BINTI ROSTAM Butir-butir Jurubahasa (Jika Ada) Nama : — No Pasport : — Alamat : — Butir-butir Pengadu Nama : KUMAR A/L SUPPIAH.M No K/P (Baru) : 660531106781 No Sijil Beranak : — Jantina : Lelaki Keturunan : India Pekerjaan : PENGARAH/JURUTERA Alamat Tempat Tinggal : NO 56 JLN DESA PERDANA 2, DANAU VILLA TMN DANAU DESA 58100 KL Alamat Ibu/Bapa : — Alamat Pejabat : — No Tel (Rumah) : —		
No Personel	: R164398	Pangkat : L/KPL
No K/P (Baru)	: —	No Polis/Tentera : —
Bahasa Asal	: —	
No Polis/Tentera	: —	No Pasport : —
Tarikh Lahir	: 31/05/1966	Umur : 45 tahun 10 bulan
Warganegara	: Malaysia	
No Tel (Pejabat)	: —	No Tel (HP) : 012-2211220
Pengadu Menyatakan:- PADA 26/04/2012 JAM LEBIH KURANG 1530HRS, SEMASA SAYA BERSAMA BEBERAPA ORANG AWAM BERADA DI BILIK ATM CIMB DAN BANK RAKYAT BANGUNAN DBKL JALAN RAJA LAUT KUALA LUMPUR DAN SEDANG MEMBERI BANTUAN RAWATAN PERTAMA KEPADA (1)P/SABAHAN YANG CEDERA PARAH KETIKA TERLIBAT DALAM PERHIMPUNAN BERSIH AMAN 3.0 DI SEKITAR KAWASAN. KETIKA SAYA DAN BEBERAPA ORANG LAGI SEDANG MEMBERI BANTUAN TERSEBUT, DATANG (5-6) ANGGOTA POLIS BERBAJU BIRU KEPADA KAMI DAN SAYA TELAH MEMINTA BANTUAN SUPAYA MEREKA MEMANGGIL AMBULANS KERANA P/SABAHAN TERSEBUT TELAH CEDERA PARAH (TANGAN PATAH DIBAHAGIAN BAHU). ANGGOTA POLIS TERSEBUT MENYATAKAN AKAN MEMANGGIL AMBULANS. KEMUDIAN DATANG SEKUMPULAN LAGI ANGGOTA POLIS BERBAJU BIRU KE ARAH KAMI DAN SAYA MINTA AMBULANS DIPANGIL DENGAN KADAR SEGERA. SELEPAS SEKUMPULAN ANGGOTA TERSEBUT KELUAR UNTUK MEMANGGIL AMBULANS, DATANG SEKUMPULAN ANGGOTA POLIS DAN ANGGOTA DBKL KEARAH KAMI TANPA BICARA DENGAN BAIK TERUS MEMUKUL KAMI DAN P/SABAHAN YANG CEDERA ITU. SAYA TELAH DIPUKUL TANPA SEBAB DAN DIBALING KE DINDING KACA SERTA DI HERET KELUAR DARI BANGUNAN. SEMASA DI LUAR BANGUNAN PULA, SAYA TERUS DIPUKUL, DITENDANG DAN DISEPAK TANPA MENGHIRAUKAN PERTANYAAN SAYA MENGAPA SAYA DIPUKUL DAN ATAS KESALAHAN APA. KEMUDIAN SAYA DIHERET DAN DILETAKKAN BERSAMA SEKUMPULAN TANGKAPAN DI HADAPAN BANGUNAN DBKL. SAYA DITAHAN BERSAMA KUMPULAN TERSEBUT SELAMA (1) JAM DAN KEMUDIAN KAMI DI MINTA BERJALAN KE BELAKANG KELAB SELANGOR. SEMASA SEDANG BERJALAN BERSAMA KUMPULAN TANGKAPAN, BEBERAPA ANGGOTA POLIS BERBAJU BIRU YANG SEDANG MAKAN DI TEPI JALAN TIBA-TIBA MELURU KE ARAH KAMI DAN MENENDANG KAMI TANPA SEBAB. SAYA TURUT DITENDANG DI BAHAGIAN KAKI. KETIKA KAMI BERADA DALAM KUMPULAN BESAR TANGKAPAN YANG DIKUMPULKAN DI BELAKANG KELAB SELANGOR, SAYA CUBA BERTANYA MENGAPA SAYA DITAHAN NAMUN TIADA SESIAPA YANG MEMBUKA MULUT TETAPI ADA SEORANG ANGGOTA POLIS BERNAMA SUREN DENGAN NADA TINGGI MENYATAKAN KAWANNYA CEDERA. SEKIRANYA APA-APA BERLAKU PADA NYAWA RAKANNYA, BELIAU MAHU HAPUSKAN KAMI BILA SAMPAI BALAI. KEADAAN ANGGOTA ITU TERLALU TEGANG DAN BEBERAPA ANGGOTA LAIN CUBA MENENANGKAN BELIAU. SEORANG ANGGOTA CHIDAMPARAM PULA TIDAK MEMBENARKAN KAMI BERTANYA APA-APA ATAU BERSUARA SERTA TIDAK MEMBENARKAN KAMI MENGGUNAKAN TELEFON BIMBIT. LEBIH KURANG (1)JAM SETENGAH KAMI DITAHAN DI BELAKANG KELAB SELANGOR, KAMI DIBAWA PULA KE PULAPOR UNTUK DOKUMENTASI DAN SAYA DIBEKASKAN PADA JAM 0030HRS. SAYA JUGA MENDAPAT RAWATAN DI PULAPOR KL. SAYA DATANG KE BALAI MEMBUAT LAPORAN TIDAK PUAS HATI DENGAN TINDAKAN KEKERASAN ANGGOTA POLIS YANG MEMUKUL SAYA TANPA MENERANGKAN SEBAB-SEBAB SAYA DIPUKUL DAN DITAHAN.		
Tandatangan Pengadu:	Tandatangan Jurubahasa (Jika ada) :	Tandatangan Penerima Repot:
		
Salinan Repot Pertama		

Exhibit 17: Police report dated 30 April 2012 lodged
at Damansara Police Station by W6

- 5.35 The Panel observes that those arrested and held at the holding area at Dataran Merdeka, were not given any water and were barred from using their mobile phone. W21 and Selamat bin Abu Hamid (W30) informed that they were not allowed to use their phone until they were brought to PULAPOL. W30 also testified that his family were left standing under the hot sun for approximately 15 minutes.

- 5.36 The Panel also finds that most of those arrested were not informed of the ground of their arrest as supported by the testimonies of W5, Kumar Suppiah (W6) and W21.
- 5.37 The Panel finds that the police appeared to target participants who were wearing yellow T-shirts and in particular, T-shirts bearing the word or logo 'BERSIH'. Arshad bin Abbas (W5) was ordered to take off his yellow T-shirt before being assaulted by the police. Karam Singh a/l Charan Singh (W14) testified that while having drinks at the A&W restaurant, police personnel approached his table and ordered him and his friend to remove their yellow T-shirts. Hee Jenn Wei (W21) was dragged from his hotel purportedly for wearing a yellow T-shirt.
- 5.38 In the absence of any evidence that wearing yellow T-shirts, associated or otherwise with 'BERSIH' or any indicia to that effect, was or is contrary to law, the Panel is unable to comprehend why the above witnesses were targeted or requested to remove their T-shirts. Such arbitrary and unilateral action on the part of the police surely constituted a violation of the witnesses' freedom of expression to wear attires of their choice.
- 5.39 Dr Siti Makkiah binti Yunus (W42) testified that the injuries to Asrul Wadi's (W13) right eye were the result of a huge impact with a blunt and speeding object. This was supported by a medical report (**Exhibit 63**). W13 testified that he received 9 stitches on his right eye and another two on his nose. His injuries had caused permanent damage to his right eye and now he has only 15-20% of his normal vision. It is the Panel's finding that based on the evidence, it is probable that W42's right eye was hit by a tear gas canister.
- 5.40 Arshad bin Abbas (W5) did not receive any medical treatment while in detention. He only received pre-treatment at PULAPOL before being brought to Hospital Kuala Lumpur.
- 5.41 From the testimony of Lance Corporal Abu Bakar bin Abdul Rahman (W43), the Panel finds that he sustained injuries at the hands of some unidentified participants outside the SOGO building.
- 5.42 It was suggested that there could be various reasons behind the use of disproportionate force by the police personnel in effecting arrest and their conduct and behaviour towards those arrested, one of which could be the rumours that were circulating of the death of a police personnel. That the rumours could have been a possible reason was acknowledged by Dato Mohmad Salleh (W49). Another reason was that the police wanted to prevent the participants from re-grouping. However, that does not explain the assaults on those arrested when they were being led to the holding area in Dataran Merdeka. Whatever may have been the reasons behind the use of disproportionate force and the conduct of the police that day, the Panel is hard-pressed to find any real justifications for their actions. It appears to the Panel that the actions of the police were driven more by anger, frustration and the need to inflict punishment than by duty.

- 5.43 The Panel also finds that there were some police personnel who were not wearing name tags and body numbers. There were also several police personnel who were in plain clothes and without any police vests, as could be discerned from video recordings (ID 12) played back before the Panel.

 JABATAN KECEMASAN & TRAUMA <i>Emergency & Trauma Department</i> HOSPITAL KUALA LUMPUR <i>Kuala Lumpur General Hospital</i> JALAN PAHANG 50586 KUALA LUMPUR		63 EXHIBIT 63 TEL : 03-26906699 <i>Medico Legal Unit</i> / 5333 <i>call centre</i> FAX : 03-26915230 WEBSITE: www.hkl.gov.my
		Ruj Tuan : SHM/006/6/25/c/17 Ruj Kami : HKL/JK/98/133 (A/80/12) Tarikh : 14 th August 2012
Butiran Pesakit (Patient Particulars) :		
Nama Pesakit (Name of patient) : ASRUL WADI BIN AHMAD		
No.K/P (I/C No): Baru (New)	: 860902-35-5733	Lama : nil
No Pasport (Passport no)	: nil	MRN : April 4380/12
Umur (Age)	: 26 Tahun (years)	
Jantina (Sex)	: Lelaki (Male)	
Tarikh masuk wad atau menerima rawatan buat kali pertama (Date of admission or receiving treatment for the first time): Tarikh (Date) : 28 th April 2012 Masa (Time) : 1602H		
Tempat menerima rawatan (Place where patient received treatment): Jabatan Kecemasan & Traumatologi (Emergency & Traumatology Department)		
Tarikh discaj dari wad atau meninggal dunia (Date of discharged or death): N/A		
Disiplin (Discipline): Emergency & Traumatology		
Sejarah (History): Patient was brought in to hospital by HKL's standby team at Dataran Merdeka. Alleged hit by fear gas canister at the rally. No loss of consciousness. Complaint of bleeding from laceration wound right eye and nose. No known allergy		
Pemeriksaan fizikal (Physical examination):		
On examination: Blood pressure 136/91mmHg, pulse rate 100/min, SPO2 100%, Glasgow coma scale 15/15.		
Pink, alert and conscious. Moving all 4 limbs.		
1) Laceration wound at outer angle of right eye extending to iris 3cm with severely swollen right upper eyelid- unable to open the eye for full inspection.		
2) Laceration wound at philtrum of nose extending into right nasal cavity – bleeding stopped on pressure.		
 CERTIFIED TO MS ISO 9001:2000 Registration No. AR3649 PENYAYANG, KERJA BERPASUKAN DAN PROFESIONALISME ADALAH BUDAYA KERJA KITA  ACCREDITED HOSPITAL		

Diagnosis (Diagnosis):
Laceration to right eyes and nose secondary blunt trauma.

Rawatan (Treatment):
Referred to eye MO on call stat
Adequate analgesia
Pressure dressing.

Preskripsi ubat-ubatan yang diberikan kepada pesakit (Drugs and medicaments prescribed to patients):

Perkembangan keadaan sepanjang di bawah penjagaan doktor termasuk rawatan susulan (Progress of patient while under the care of the doctor including follow up): N/A

Keadaan pesakit ketika berjumpa kali terakhir dengan doktor (Condition of the patient last seen by the doctor): Tarikh (Date):

Cuti sakit/sekolah (Medical certificate /school leave): Dari (From) Hingga (To)

Laporan disediakan oleh (Report prepared by):

Nama (Name): **DR SITI MAKKIAH YUNUS**
No.K/P (I/C No): 730118-03-5554 Jawatan (Designation): Pegawai Perubatan (Medical Officer)
Kelulusan (Qualification): MBBS (UM) Jabatan (Department): Emergency & Trauma HKL.

Tandatangan (Signature): Tarikh (Date): 30/7/12 Masa (Time): 1115AM

DR SITI MAKKIAH YUNUS
PEGAWAI PERUBATAN
JABATAN KECEMASAN & TRAUMA
HOSPITAL KUALA LUMPUR
NO.PENDAFTARAN: 35714

  **PENYAYANG, KERJA BERPASUKAN DAN PROFESIONALISME**
ADALAH BUDAYA KERJA KITA

 **ACCREDITED HOSPITAL**

CERTIFIED TO MS ISO 9001:2000
Registration No. AF03649

Exhibit 63: Medical report by W42 from Jabatan Kecemasan dan Trauma, Hospital Kuala Lumpur regarding the injuries suffered by W13

- 5.44 The Panel takes note that the police personnel were equipped with walkie-talkies, helmets and guns. According to the police witnesses, they were ordered not to use firearms during the assembly but from the video recording

(ID 12) shown to the Panel, a traffic police personnel could be seen pointing his gun towards the participants. Khairul Anuar bin Pawanchik (W3) confirmed that he witnessed a traffic police personnel pointing his gun at the crowd.

- 5.45 From the testimonies of Superintendent Zahari bin Hj Mohd Yusoff (W23) and ASP Alekzandra bin Dawam (W25), they acted in accordance with *Perintah Tetap Ketua Polis Negara* in exercising their duties on 28 April 2012. W23 and W25 had ordered their troops to shoot the tear gas upwards but from the video (ID 12) recording shown to the Panel, some FRU officers could be seen shooting straight towards the participants contrary to the order.
- 5.46 Notwithstanding testimonies to the contrary, and as indicated earlier, the Panel is unable to conclude that the spirit of the PAA 2012 guided PDRM in its operations and in managing and handling the participants during the public assembly of 28 April. Indeed, it would appear that it was too soon after the enforcement of the PAA 2012 to expect any real or effective change from the erstwhile approach of PDRM in handling public assemblies.

Communication Breakdown

- 5.47 The Panel takes note that communications were disrupted on the day of the assembly, leading to numerous instances of breakdown of communications as well as in the chain of command among the police personnel.
- 5.48 ACP Mohamad Zulkarnain bin Abd Rahman (W37) informed the Panel that due to a breakdown in communication, he was unable to convey his order to his officers during the breach of the barricades. Accordingly, he believed that his police personnel were acting on their own using their discretion and in accordance with the briefing they had received prior the assembly.
- 5.49 Dato' Mohmad Salleh (W49) testified that at or around 5 pm, he ordered his personnel to pull back but he admitted that there was a possibility that they did not receive his order as the situation went out of control or that they were not focused in carrying out their duty during the assembly due to the breakdown in communication.
- 5.50 Arshad bin Abas (W5) informed the Panel that he had problems with telephony access within the area of the assembly at 3.00 pm. According to Mr. Hanif bin Ahmad Zainudin (W9), he was unable to contact his friends by phone or SMS as there was no network coverage. He was only able to receive messages at or around 6.00 pm.

Confiscation of Equipment

- 5.51 The Panel finds that there was confiscation of equipment during the assembly. According to Arshad bin Abas W5, his mobile phone, watch, bluetooth headset, Samsung tablet and pen drive were confiscated by the police personnel who assaulted him.
- 5.52 Koh Jun Lin (W16) told the Panel that the police took away his camera and media tag when he was arrested at the intersection of Jalan Raja Laut and Jalan Tun Perak. Subsequently, the police officer returned his camera to him outside the Royal Selangor Club. However, the memory card from his camera was confiscated as allegedly it was required by his superior officer as evidence.

Arrests at the Premises

- 5.53 The Panel finds that participants were also arrested while they were inside certain premises, such as hotels and restaurants. It would appear to the Panel from the following testimonies, that police personnel entered restaurants and hotels to look for participants who were involved in the assembly and to arrest them. The Panel is of the opinion that the arrests took place when the participants had already left the scene of the assembly and were possibly planning to return home or to the hotels where they were registered as guests.
- 5.54 Based on the testimony of Hee Jenn Wei (W21), he left the assembly and walked to Citin Hotel, where he had checked in earlier as a guest, and while in the hotel lobby, he was arrested and taken by the police to Dataran Merdeka.
- 5.55 Selamat bin Abdul Hamid (W30) testified that a group of police entered the lobby of the Swiss Hotel and started to slap and kick the participants there. W30 was then arrested by the police.
- 5.56 Zaidatul Akhmar binti Zainon (W24), then an employee of A & W restaurant, had testified before the Panel that police personnel who were in plain clothes entered the A&W restaurant and ordered the participants, who were inside the restaurant, to take off their yellow T-shirts.
- 5.57 The Panel also viewed a video recording (**ID 12**) where police personnel were seen entering a restaurant and proceeding to abuse the patrons there.
- 5.58 The Panel notes that no justifications or explanations were given by PDRM with regard to the arrests made by the police inside the hotels and restaurants or the reason for their conduct and behaviour.

At PULAPOL

- 5.59 DSP Rajakopal A/L Arumugam (W46) who was the officer in charge at PULAPOL, testified before the Panel that the situation at PULAPOL was calm in the morning until 3.00 pm.
- 5.60 From the testimonies of Selamat bin Abdul Hamid (W30) and DSP Rajakopal a/l Arumugam (W46), all participants who were brought to PULAPOL were given food, water, space to perform their prayers and medical treatment. Welfare officers were also at hand to provide services at PULAPOL. According to the testimony by Arshad bin Abas (W5) who was injured, he was given minor treatment upon arriving at PULAPOL by the medical officer before being taken to HKL. There were separate areas for men, women and children.
- 5.61 Christopher Leong Sau Foo (W40) testified that he went to PULAPOL and was told that the police had been refusing those detained access to their family members and lawyers. He then went to the main gate to request for entry into PULAPOL but was refused. However, according to DSP Rajakopal a/l Arumugam (W46), none of the detainees had asked him for access to their legal counsel. He also added that he did not allow the lawyers to enter as they had not provided the names of their clients. Further, the detention PULAPOL was for the purpose of documentation and to ascertain whether there were any grounds to levy charges against those who were being detained. As they had not been charged, according to W46, there was thus no need for them to have access to their lawyers.
- 5.62 The Panel notes that out of a total of 512 participants arrested and brought to PULAPOL, only one participant was charged and the rest were released. The Panel further notes that all detainees were released between 12.00 am and 5.00 am on 29 April 2012.
- 5.63 Notwithstanding the explanation by W46, the Panel would like to reiterate the provisions of Article 5(3) of the Federal Constitution under which any person who is arrested shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice. Failure to allow those detained access to their lawyers is both a breach of the Federal Constitution and basic human rights principles.

Agents Provocateurs

- 5.64 There were testimonies to the effect that there could have been persons who were present at the assembly that day who were neither the police nor participants of the assembly, but whose conduct and actions suggested that they could have

been agents provocateurs. While the Panel does not deny the possible existence of agents provocateurs, the Panel is unable to verify this fact or determine who those persons were. No one came before the Panel to verify the existence of such groups of persons either.

- 5.65 There were apparently groups of man wearing black T-shirts who were seen standing near to or with the police; as well as working with the police and dismantling the barricades. According to the testimony of Kunabal a/l Rajagopal (W1), he witnessed some men in black T-shirts dismantling the barbed wires erected across the bridge in front of the Bar Council Building at or around 3.00 pm but there was no reaction from the police. Khairul Anuar bin Pawanchik (W3) in his testimony informed the Panel that the dismantling of the barbed wires required experience and expertise. This testimony is supported by the admission of the police that if not handled properly or according to procedure, such wires could cause minor injuries. (see Chapter 4, paragraph 4.12).
- 5.66 According to Christopher Leong Sau Foo (W40), he saw some people who were standing with the police, wearing black shirts and pants/jeans in the vicinity of Masjid India. W40 related an incident where he was asking the crowd to move back to avoid the congestion along Jalan Melayu, when suddenly a man in black T-shirt and black jeans came towards him and asked him to stop shouting. W40 then identified himself as a member of the Bar Council monitoring team, whereupon the man replied, "So what?" By that time, several participants had rallied around W40 and the man took off.
- 5.67 Chen Shaua Fui (W15) also testified that she witnessed a few Proton Perdana cars, with dark-tinted windows, driving very fast towards the crowd at Jalan Tun Perak. She thought those cars were police cars as there were riders in front of the cars. They made a sharp U-turn, which angered the crowd whereupon they started throwing bottles at the cars.
- 5.68 There were several plain-clothes police personnel who were not wearing police vests who were caught on videos and cameras beating up the participants. **(ID 11& ID 12)**

Observations by the Panel

- 5.69 The Panel is of the view that in the spirit of the PAA 2012, PDRM should have facilitated the assembly on 28 April 2012. According to the PAA 2012 as stipulated under section 8, "the police officer may take such measures as he deems necessary to ensure the orderly conduct of an assembly in accordance with the Act and any written law". To this end, the police have the responsibility to facilitate the assembly by managing and directing the movement of the participants, members of the public,

and the traffic, and ensuring the availability of exit routes. While the police may have the power to arrest and disperse the assembly under sections 20 and 21 of the PAA 2012, they also should allow sufficient and reasonable time for voluntary compliance by the participants first before taking further action to disperse or arrest them. Even then, in dispersing or making any arrests, the police should only use such force as is necessary to achieve the objectives; disproportionate force should be avoided at all times. In this regard, the Panel would like to commend PDRM for the manner in which it handled and managed the KL112 Assembly (Himpunan Kebangkitan Rakyat) which took place on 12 January 2013.

- 5.70 The Panel believes that PDRM has extensive experience in managing and controlling crowds even in situations involving a large number of people, as exemplified by their handling of public events like the Merdeka Day Celebrations, Malaysia Day Celebrations and New Year's Eve, all of which at one time or another, had been held at Dataran Merdeka. Given their experience, the Panel is confident that the police would have had the capability to facilitate the assembly on 28 April and to act accordingly to ensure a peaceful and relatively incident-free day.
- 5.71 The Panel is of the opinion that the police could and should have immediately arrested the individuals who dismantled the barricades, more so when it happened right in front of the police or within sight of the police. Instead, for reasons best known to them, the police took the decision to disperse the participants by using water cannon and tear gas without arresting the individuals who dismantled the barricades earlier.
- 5.72 The Panel views seriously the conduct of a traffic police who was pointing his gun at the crowd which could have endangered the lives of the people there.
- 5.73 The Panels observes that the organiser had prepared and distributed guidelines to all participants. The guidelines, entitled *Garis Panduan BERSIH 3.0 – 28 April* were made available at BERSIH's homepage and Facebook webpage. In the said guidelines, the organiser had listed the steps to be taken by the participants before, during and after the assembly including statements such as "*Jangan bawa sebarang benda tajam*", "*Jangan bawa benda yang mudah meletup*", "*Berkumpul di tempat pertemuan yang ditetapkan*" and "*Pastikan bersurai secara perlahan-lahan dan aman selepas arahan bersurai*". However, the Panel is concerned at some of the language used in those guidelines, in particular, the following paragraphs: "*sesungguhnya anda akan rasa lebih hebat dan berani lagi selepas ditangkap kerana tidak semua orang berpeluang merasai apa yang anda lalui ketika ditahan*", "*peristiwa ini adalah peluang anda sekali seumur hidup dan ianya akan kekal menjadi sejarah yang akan menjadi sebutan kepada anak cucu kita. Jangan lepaskan peluang untuk menjadi sebahagian dari sejarah ini*, and "*Ikutilah arahan dari Unit Amal atau Field Commander sepanjang program. Jangan*

pedulikan arahan lain tanpa merujuk kepada Field Commander". The Panel is of the view that the language used in those paragraphs could be misinterpreted and possibly encourage the participants to act in a manner that may be contrary to law or which may result in undesirable actions and consequences.

- 5.74 The Panel takes note that the police did not offer any rebuttal to the allegations made by the witnesses. The Panel also notes that there was lack of co-operation from the PDRM especially in identifying their personnel who were involved in the assault. The Panel also finds it unacceptable that PDRM could not identify their own personnel merely because they were from different contingents and different states.

Recommendations

- 5.75 PDRM in discharging its functions should also take into consideration the rights of the individuals and ensure that they are able to exercise their rights as enshrined under the Federal Constitution and other laws of the country.³⁷ The police should not regard public assemblies as a challenge to their authority.
- 5.76 PDRM should facilitate peaceful assemblies as envisaged under the PAA 2012. For the purpose of facilitating, ensuring crowd and traffic management and control, and minimising disruptions to the public and activities in the places concerned, the authorities and the organiser must meet and reach mutual agreement on those and other related matters. The authorities must keep in mind that the former section 27 of the Police Act is no longer applicable to public assemblies.
- 5.77 The police should carry out continuous training and workshops on crowd management and control in line with international standards.
- 5.78 The police should minimize disruptions to traffic and public transportation to ensure easy and orderly movement and dispersal before, during and after any public assembly.
- 5.79 The police must make distinction between a peaceful assembly and a riot. They should also be seen to be neutral and ensure the safety of participants and members of public especially in the event of public assemblies involving two or more opposing groups in the same area.
- 5.80 PDRM should review and amend their Standard Operating Procedure (SOP)/ Standing Orders in the dispersal of assemblies in line with international human rights

³⁷ See Report of the Public Inquiry into the Infringement of Human Rights Including the Use of Excessive Force Prior to and During the Assembly on 9 July 2011, page 25

standards such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), Convention on the Rights of Children (CRC), European Convention and American Convention on Human Rights and to emulate best practices of other Police Forces in the world;

- 5.81 The police should explore alternative means to warn and disperse participants and not merely depend on the existing methods especially when dealing with large crowds during any public assembly.
- 5.82 In dispersing the participants, PDRM must ensure that participants are given sufficient and reasonable time to disperse in an orderly and safe manner, and that proper exit routes are available to avoid any untoward incidents. Any action of PDRM should not result in the kettling of participants.
- 5.83 To avoid any untoward incident or conflicting instructions, the Panel recommend that orders should be issued by the Ground Commander and should the task be delegated to another officer, it should be made known to the police officers on duty during the public assembly.³⁸
- 5.84 The Panel notes that there were communication breakdowns during the assembly. Therefore, the PDRM should adopt additional or other means of communication in order to ensure that police officers maintain communications with one another and that there is no confusion with respect to orders or actions taken by any of the troops on the ground.³⁹
- 5.85 The Panel is of the opinion that the arresting officers must exercise care and avoid using unwarranted or disproportionate force. The Panel takes note that the police officers have the power to arrest or disperse the participants according to the law. However, the use of force must be proportional to the level of risks at the time of such arrest.⁴⁰
- 5.86 Members of the public especially participants of public assemblies should not take the law into their own hands and must appreciate and respect at all times that the police too have their role and responsibilities in maintaining and preserving the security, peace and law and order.
- 5.87 The police personnel should exhibit at all times a high level of professionalism and must be able to handle pressures when dealing with issues in connection with their work.

³⁸ See Report of the Public Inquiry into the Infringement of Human Rights Including the Use of Excessive Force Prior to and During the Assembly on 9 July 2011, page 30

³⁹ See Report of the Public Inquiry into the Infringement of Human Rights Including the Use of Excessive Force Prior to and During the Assembly on 9 July 2011, page 33.

⁴⁰ See Report of the Public Inquiry into the Infringement of Human Rights Including the Use of Excessive Force Prior to and During the Assembly on 9 July 2011, page 25

- 5.88 Police personnel should wear their permanent name tags or identification body numbers at all time when exercising their duty. The Panel recognise the need for plain-clothes officers especially to monitor, observe and document the event but these officers must not be involved in the dispersal or arresting process, unless they clearly identify themselves.
- 5.89 The Panel recommends that in the interest of transparency and public interest, PDRM makes public their SOP so that members of public understand and appreciate the actions taken by the police. This is also to ensure the police personnel act according to the SOP.
- 5.90 Persons arrested should be informed ground of arrest and not be denied access to legal counsel.

Chapter 6

FINDINGS BY THE PANEL OF INQUIRY: JOURNALISTS

- 6.1 The Panel's findings are based on witnesses' testimonies, assisted by the submission and questions posted by observers and exhibits tendered. Reference is also made to the following documents: *Special Report on the Handling of the Media during Political Demonstrations* by the Representative on Freedom of Media for the Organization for Security and Co-operation in Europe (OSCE), 21 June 2007; and the *Safety Handbook for Journalists* of the National Union of Journalists.

Freedom of Media

- 6.2 The media plays an important role in ensuring that the voices of the people are heard, and that the reporting of events and incidents is carried out accurately. The freedom of the media in reporting public assemblies or demonstrations is vital as it is very much a part of the freedom of assembly and expression, just as the freedom to assemble is an exercise of the freedom of expression. Article 19 of the UDHR states that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".
- 6.3 For the proper exercise of the freedom of assembly and expression, and the discharge of its role and responsibilities, the media must be able to report and cover public assemblies without hindrances and fear of physical harm whether at the hands of the authorities or the participants.
- 6.4 Section 24 of the PAA 2012 which states that "any media representative may have reasonable access to a place of assembly and use any equipment to report on the assembly" underscores the role and importance of the media in reporting and disseminating news and information on any public assemblies.

Testimonies, Evidence, Medical Report, Photographs

- 6.5 The following witnesses, all media personnel who were assigned duties to cover the public assembly of 28 April 2012, testified as follows:
- Mohd Radzi bin Abdul Razak (W17) testified that he was beaten up and punched by a group of police personnel causing him to suffer from, among others, fractured ribs.

- Koh Jun Lin (W16) testified that following his arrest, he was beaten and punched by police personnel as he was being led to the holding area near the Royal Selangor Club.
 - Meanwhile, Chen Shaua Fui (W15), a female journalist, testified that she was manhandled by four police personnel.
- 6.6 The witnesses also testified that they had on them at least two types of media tag: one issued by the Ministry of Information, and another issued by their employers. Some were wearing vests that had wordings identifying them as being from the media.
- 6.7 The witnesses testified that when accosted by the police, they identified themselves as being from the media and showed them their media tags.
- 6.8 The witnesses also testified that their employers had expressly instructed them not to wear, nor did they wear any items of clothing, that could have identified or associated them as being part of the assembly.
- 6.9 Notwithstanding the show of their identification tags, the witnesses testified that they were assaulted, or arrested, or, in the case of Koh Jun Lin (W16,) his media tag and camera were confiscated by the police.
- 6.10 Witnesses also testified that police personnel obstructed them in the course of carrying out their duties as media personnel. According to Puspanathan a/l Periannan (W20), he was ordered to delete the photographs that he had taken while Chen Shaua Fui (W15) was warned by a police personnel not to take any photographs with her camera, despite her informing the policeman that she was a member of the media. Koh Jun Lin's (W16) camera was confiscated although it was later returned without the memory card which was retained by the police allegedly as evidence.
- 6.11 PDRM did not offer any witness or evidence to respond or counter any of the above allegations.

Panel's Findings

- 6.12 It is the Panel's finding that none of the allegations of assault by the police against the witnesses from the media while covering the assembly were challenged or rebutted by PDRM.

- 6.13 The Panel is fully cognisant of the difficulties the police personnel may have in distinguishing the media personnel from the participants in any public assembly particularly one that may have turned chaotic. It is thus important that media personnel have proper identification and media tags to distinguish them from the participants and to enable the authorities to identify them.
- 6.14 The Panel however finds that the witnesses in question had proper tags identifying them as being from the media.
- 6.15 The Panel also observes that none of the media personnel who testified were wearing any items of clothing that might have suggested that they were participants of the assembly.
- 6.16 From the testimonies, the Panel observes that there was no evidence, whether verbal, documentary or audio-visual, that any of the media personnel acted or conducted themselves in a manner that could be construed as being out of order or beyond the boundaries of their roles and responsibilities. Neither was there any evidence that they posed any threats to the peace and security in the areas on that day. As such, the Panel is hard-pressed to find any basis for the police to act as they did in preventing the media personnel from covering the event, confiscating their equipment, deleting the photographs taken, or arresting or assaulting them.
- 6.17 Even assuming that the police personnel had no idea that the witnesses were from the media, there was no basis for treating them the way they did.
- 6.18 It would appear to the Panel that the police had acted in bad faith; indeed their actions would even suggest that there were deliberate attempts on the part of the police to prevent the media personnel from reporting and taking photographs of various incidences that happened that day, more specifically, those involving the police and the participants. These attempts at preventing the media from discharging their role and responsibilities are indeed regrettable and are clearly a breach of the fundamental right of expression and freedom of media.
- 6.19 What is even more regrettable are the testimonies of assaults and injuries inflicted upon the media personnel. In the absence of any response or rebuttal by PDRM the Panel accepts the testimonies of the witnesses, which were supported by medical reports and photographs. Accordingly, it is the finding of the Panel that the police did physically assault, injure, intimidate or manhandle media personnel Chen Shaua Fui (W150), Koh Jun Lin (W16), Mohd Radzi bin Abdul Razak (W17) and Puspanathan a/l Periannan (W20) who were covering the public assembly of 28 April 2012, even though attempts were made on their part to identify themselves as being from the media.

- 6.20 The Panel expresses its abhorrence at the mistreatment of media personnel and the abuse of their rights to carry out their duties without hindrance or fear of physical harm.

Panel's Observations

- 6.21 During the hearing, it was suggested that there should have been a media briefing prior to the assembly of 28 April presumably to enable the police and the media to understand their respective roles and responsibilities, and to act accordingly. While the Panel does not wish to deny the usefulness of such briefings, it is nevertheless of the view that regardless of whether briefings are held, the police and the media personnel must conduct themselves properly, professionally and in accordance with the law. While the Panel feels that such briefings may be an indicator of the willingness of the authorities to co-operate and reach a mutual understanding, under no circumstance should such briefings be used to limit or restrict the media personnel from carrying out their tasks.
- 6.22 Section 24 of the PAA 2012 entitles the media reasonable access to a place of assembly. This would suggest that the authorities have a duty to provide reasonable access to the media. According to Koh Jun Lin (W16), he was asked to join a group of other media personnel gathered behind a line of police personnel at the intersection of Jalan Raja and Jalan Parlimen. While the police should be commended for acting in good faith to ensure the safety of the media, such measures should not at the same time hamper media personnel from carrying out their duties.
- 6.23 While it is the duty of the media to cover an event and to report to the public, members of the public also have the right to accumulate and disseminate information. Article 19 of the UDHR states that every citizen has the right to impart his ideas to another. This guarantees the right of every person at the assembly to take photographs and the authorities have no justification to prevent a member of the public from doing so unless in or around prohibited areas.
- 6.24 The NUJ's *Safety Handbook for Journalists* (**Exhibit 48**) remains to be treated as a reference, to be referred to only when necessary and where applicable. Contrary to the contention made repeatedly by the representative of PDRM during the hearing, the assembly on 28 April 2012 was neither a war zone nor a social unrest in the morning, and it never became one even with the turn of events at 3.00 pm onwards. Therefore, it was not necessary at any time for the journalists to have come prepared with helmets or gas masks as suggested by the observer from PDRM.

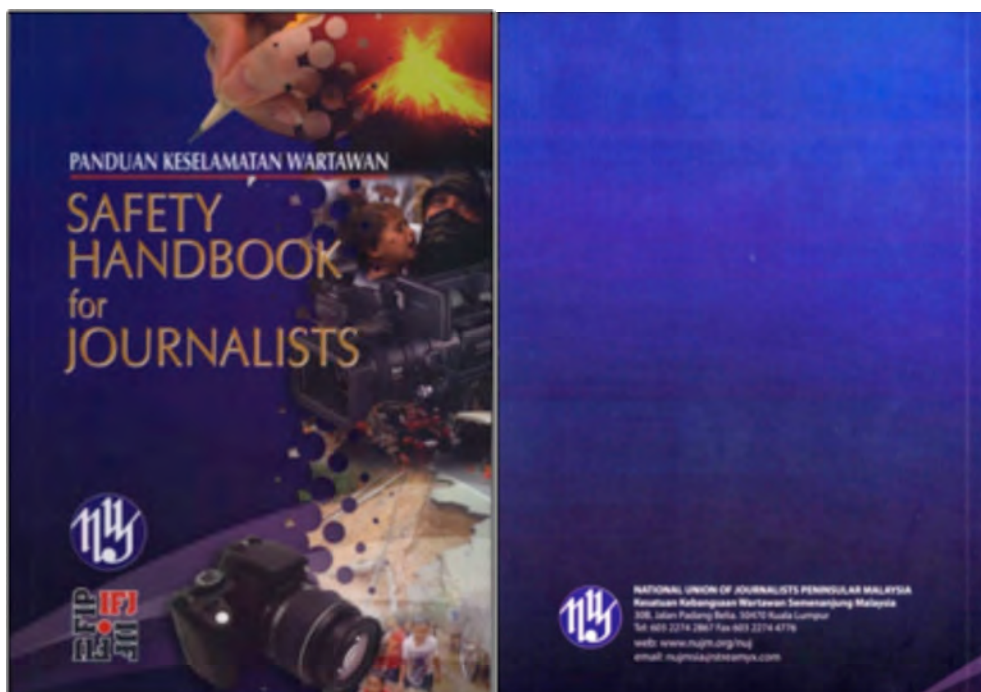


Exhibit 48

- 6.25 The Panel takes note the Press Freedom Index released by Reporters Without Borders in February 2013 which ranked Malaysia at number 145 out of 179 countries, a drop of 23 places compared to its previous position.⁴¹ It was reported that among the reasons for drop is the limited access to information by media in Malaysia.

Recommendations

- 6.26 The Panel would like to refer to the OSCE's *Special Report on the Handling of the Media*,⁴² which contains guidelines on, amongst other things, how the authorities should treat the media during assemblies, as well as how the media should be prepared in handling the reporting of such events.

⁴¹ The report is based partly on a questionnaires sent to partner organizations of Reporters Without Borders (18 freedom of expression non-governmental organizations located in all five continents) and its 150 correspondents around the world, as well as to journalists, researchers, jurists and human rights activists. The questionnaire asks questions about pluralism, media independence, environment and self-censorship, legislative framework, transparency, and infrastructure.

⁴² Organization for Security and Co-operation in Europe (OSCE)'s *Special Report: Handling of the media during political demonstrations (Observations and Recommendations)*

- 6.27 Communication or briefing between the police and the media before the assembly may assist both sides in appreciating the roles and duties on the day of the assembly, and to anticipate events that might occur. In this regard, the Panel would like to commend PDRM for facilitating access to members of press during the KL112 Assembly (*Himpunan Kebangkitan Rakyat*) which took place on 12 January 2013.
- 6.28 The Panel concurs with the OSCE report which states that whether an assembly is sanctioned or unsanctioned (legal/illegal or with/without permit), the newsworthiness is in the fact that a mass demonstration is taking place and of public interest. Furthermore, as media professionals they are neutral and unbiased to the circumstances under which an event takes place. Therefore, the media must be protected by the same rights as if they were reporting any other public event.
- 6.29 In carrying out their duties as a reporter, the attire worn must not be similar to what the participants are wearing. Media tags must be worn and visible at all times. Media personnel should also not join the participants in activities such as chanting and singing to avoid being identified as participants.
- 6.30 The Panel invites the authorities to conduct briefings and trainings for its personnel in managing and facilitating the work of media personnel during an assembly. The police and the media should acknowledge their roles in the interest of public and the nation and as such should remain respectful towards each other.

Chapter 7

HUMAN RIGHTS INFRINGEMENTS AFTER THE ASSEMBLY OF 28 APRIL 2012

- 7.1 Incidents continued to take place after the assembly of 28 April 2012. The authorities condemned the organisers especially through the mainstream media, while the organisers and the public openly criticised the authorities mainly the police for their highhandedness and manner in which they handled the assembly participants and members of the media.
- 7.2 There were also a series of personal attacks against the organisers and in particular, Dato' Ambiga Sreenevasan (W48).

Incidents in front of Dato' Ambiga Sreenevasan's Residence

- 7.3 According to the testimony of Dato' Ambiga Sreenevasan (W48), various activities and demonstrations were held in front of her house a few weeks after the assembly, ostensibly to protest against her for her role as the co-organiser of the assembly on 28 April.
- 7.4 According to W48, on 10 May 2012, a group of traders gathered outside her residence in Bukit Damansara and set up stalls selling burgers.
- 7.5 On 15 May 2012, a group of retired armed forces personnel turned up in front of her residence and proceeded to hold a physical exercise session, including an exercise involving the showing and shaking of their rear ends.
- 7.6 Another group, on 21 May 2012, reportedly wanted to set up stalls for a '*pasar malam*' along the stretch of road where W48's residence was located. On 24 May 2012, a group of about 150 people who called themselves 'Bersih 4.0' and 'Halau 1.0' gathered in front of W48's residence and demanded an apology from her for the alleged damage caused to properties and for the violence which occurred on 28 April 2012.
- 7.7 According to W48, she was also labelled as an enemy of the state, and a Hindu kafir. There were also calls for the revocation of her citizenship and her expulsion from the country.

- 7.8 W48 also testified that she received death threats and was told that two hired guns had been contracted to assassinate her.

Statement by PDRM

- 7.9 In her testimony, W48 also quoted the Deputy Inspector-General of Police, Tan Sri Khalid Abu Bakar as saying that the demonstrators were free to demonstrate their dissatisfaction towards W48 in front of her house for as long as it did not affect public order.

Police Inaction on the Reports lodged by Victims

- 7.10 In most cases, the witnesses who alleged that they were assaulted or injured by police personnel during the assembly of 28 April, informed the Panel that they lodged police reports. However, only a few testified that there had been any follow up by the police. Media personnel, Mohd Radzi bin Abdul Razak (W17) was called by the police a month after the assembly for an identification parade. However, W17 could not identify the person or persons who assaulted him from the identification parade. According to W17, the identification parade was made of police personnel who were much older and did not possess the physique of a young man, although he had specifically mentioned in his police report that he was assaulted by a group of young policemen.
- 7.11 According to the Criminal Procedure Code, every investigation must be completed without unnecessary delay.⁴³ However, according to ACP Mohamad Zulkarnain bin Abd Rahman (W37), Lance Corporal Abu Bakar bin Abdul Rahman (W43) and Dato' Mohmad Salleh (W49), all the police reports that were lodged by the public in relation to the assembly of 28 April, were still pending.
- 7.12 According to ACP Khairi bin Ahrasa (W36), there is no specific period for an investigation to be wrapped up and completed. However, for each police report, an investigation paper must be produced. W36 testified that 10 individuals had been charged in court: 2 police personnel and 8 civilians. The cases are still being heard in court at the time of this Inquiry.

⁴³ Section 120 of the Criminal Procedure Code states that (1) Every police investigation under this Chapter shall be completed without unnecessary delay, and the officer making the investigation shall, unless the offence is of a character which the Public Prosecutor has directed need not be reported to him, submit to the Public Prosecutor a report of his investigation together with investigation papers in respect of such investigation within one week of the expiry of the period of three months from the date of the information given under section 107.

- 7.13 Most of the police witnesses testified that they were not required to prepare a written report, or submit such report to their superior. According to Inspector Norazmee bin Mohamed (W29) who was under the supervision of ASP Ahmad Jais bin Ujang (W28), he was not requested to prepare any report nor did he prepare one. He assumed that W28 as his superior and the zone officer for Dataran Merdeka would have prepared one. Similarly, Inspector Farid bin Sairi (W31) did not submit a report, although he did report verbally to the OCPD at 8.12 pm during the briefing after their stand down. However, according to Superintendent Zahari bin Haji Mohd Yusoff (W23), two days after the assembly, his superior requested for a meeting where they were asked to prepare and submit a report. Similarly, ASP Alekzandra bin Dawam (W25) also prepared a report which he submitted to his superior. Both W23 and W25 led troop 4 Alpha and 4 Bravo of the FRU units respectively on 28 April 2012.

Panel's Observations on the Human Rights Infringements after 28 April 2012

- 7.14 The Panel would like to emphasise that every human being is entitled to enjoy all the fundamental rights and freedoms as enshrined in our Federal Constitution and the UDHR. At the same time, as asserted by the Federal Constitution as well as the UDHR, such rights and freedoms are not absolute. Article 29(2) of the UDHR clearly envisages a balance to be struck in the exercise and enjoyment of fundamental rights and freedoms when it asserts that there may be limitations solely for the purpose of securing due recognition and respect for the rights and freedoms of others, and of meeting the just requirements of morality, public order and general welfare in a democratic society. Similarly, the PAA 2012 clearly envisages a balance to be struck between the full enjoyment of fundamental rights and freedoms and the rights of others and national security.
- 7.15 Accordingly, the Panel acknowledges the right and freedom of the persons who staged protests and carried out various other activities outside the residence of W48, in exercise of their freedom of expression and peaceful assembly. At the same time, such rights must be exercised with due recognition and respect for the rights and freedoms of others. In this regard, the right to privacy, personal liberty and safety are fundamental rights not only of W48 but those persons who reside along the same road and in the same area as W48, which must also be safeguarded. Such rights must also be exercised in accordance with the law such as the PAA 2012, other laws, regulations or municipal by-laws.
- 7.16 The Panel observes that the relevant authorities did not take any or immediate action when stalls were set up in front of Dato' Ambiga Sreenevasan's (W48) residence,

though clearly such activities would have violated some municipal rules, regulations or by-laws. The Panel takes an extremely serious view of the failure of the authorities to act in the face of such blatant violations of their rules and regulations. The failure to act suggests to the Panel not only of a lack of will to act but possibly even, bias or condonation on their part. Such inaction on their part could also encourage violations and lead to breaches of peace or even undermine the powers of the authorities concerned.

- 7.17 The Panel observes that there was also a lack of follow up of all the police reports lodged by the public. As of January 2013, none of the police reports that were lodged by some of the witnesses have been successfully determined by PDRM.
- 7.18 The Panel also observes that there is no specific requirement for the police personnel to submit a written report after their duty on 28 April. Not all police witnesses submitted reports after the assembly.

Recommendations

- 7.19 The Panel urges the authorities to act professionally, impartially and fairly at all times in the discharge of their duties and responsibilities and not to be seen favouring or being partial to any particular party or group.
- 7.20 In addition, the Panel urges the authorities especially high ranking officers to exercise caution when issuing statements that may be interpreted as condoning or advocating any infringement of human rights and which contravenes any law in the country.
- 7.21 The Panel recommends strongly that PDRM conduct and complete its investigations on the police reports lodged by the public, even though the reports were in relation to acts committed by police personnel. Although there is no specific timeline for the completion of any investigations, PDRM must act expeditiously to conclude its investigation, more so when it involves their own police personnel so as to avoid allegations of bias and lack of transparency.
- 7.22 The Panel also recommends PDRM to review its SOP and make compulsory the reporting of its personnel after performing their duty which details all actions taken during the assignment and in his case, after the assembly. This is to ensure professionalism and all personnel are accountable for their actions.

Chapter 8

ROLES AND RESPONSIBILITIES OF OTHER AGENCIES DURING THE ASSEMBLY

Dewan Bandaraya Kuala Lumpur (DBKL)

- 8.1 On 28 April 2012, DBKL officers were on duty to ensure that Dataran Merdeka and its vicinity and the other property of the Mayor were protected and not violated by the participants. Under by-law 14(1) of the Local Government (Dataran Merdeka) (Federal Territory of Kuala Lumpur) By-Laws 1992, made under the Local Government Act 1976, the Mayor has the power to order out of the Dataran Merdeka, any person who contravenes any provisions of these By-laws. These By-laws read together with section 4(6) of Federal Capital Act 1960 empower the Mayor to delegate his power to his officers to carry out the enforcement duty.
- 8.2 According to DBKL's officer Mohd Zulhainan bin Mohd Isa (W39), he served as operation officer during the assembly of 28 April. His duty was to prevent any activities at Dataran Merdeka and damage to the property of the City of Kuala Lumpur.
- 8.3 According to W39, there were about 1300 DBKL officers on duty during the assembly on 28 April.
- 8.4 Prior to the commencement of the assembly, DBKL officers were instructed not to bring any weapons and were specifically instructed to prevent the protesters from entering the City Hall building. DBKL officers did not have the power to disperse the protesters during the assembly.

Light Rail Transit (LRT) Facilities

- 8.5 During the assembly on 28 April 2012, the Panel finds that there was disruption to the traffic in the city from the morning due to road blocks put up by the authorities. There were also no taxi and bus services. However, the LRT facilities were operating as usual.
- 8.6 The Panel finds that the LRT served as one of main modes of transportation on 28 April 2012 conveying the participants to the assembly. A witness from Syarikat Prasarana Negara Berhad, Rail Division, Tuan Hj Khairani bin Mohamed (W41) said

the LRT operated as usual as any other day. The LRT did not face any particular problems or issues on that day, as they were used to handling huge crowds especially during football matches or other celebrations in the city; in fact on that day, they made huge profits.

- 8.7 However, the station at Masjid Jamek was closed at 3.00 pm until 5.30 pm to ensure the security of the passengers as well as the safety of the company's property. The Panel was informed that the decision to close the station was made based

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Effective Date: 1 January 2010		Revision Date: 31 May 2009
EMERGENCY RESPONSE PLAN		
Abbreviations, Common Terms and Definition		
Mandate: Rail Operations Division and Rail Engineering Division		
Author Name: Bukhari Mohamed	Approved Name: Nor Hassan Ismail	Page 80 of 109
Position: GMO	Position: COO - Rail	

10.10 CODE ROMEO (RIOT OR CIVIL DISTURBANCE)

A disturbance such as a riot or demonstration can originate from: -

- Service failure or emergency causing a major delay
- Insufficient service available to meet demand
- Political or sports event
- Complaints about system operations
- Gang related incidents

10.10.1 CODE ROMEO – RESPONSE

If ANY employees witness a riot, civil disturbance or demonstration, following special action is required:

- Contact the OCC and give information according to A-L-A-R-M format i.e.
- Your name and location
- Location and approximate number of people involved
- Direction they are moving
- Mood of the group (are they violent or peaceful)
- Types of weapons; if any
- Any other information which would help the ERA with their response.

The OCC will declare a RED PAPA and contact the ERA. At least Level 3 response is required to attempt.

If the riot or civil disturbance is unrelated to service, the OCC and Station Operation personnel must determine the total area affected and halt service/close stations.

If the riot, civil disturbance or demonstration is in the vicinity of the Depot, the Security personnel must be informed.

- Use the CCTV to record as much of the event as possible
- All employees should be prepared for intrusions
- Field Operations personnel should be prepared to close stations if necessary.
- The OCC should be prepared for service revision (i.e. suspension of service at a given station(s) with turn back provision).

IMPORTANT: No working notes or alterations are allowed on any page of this manual.

Exhibit 62(b): Section 10.10.1 of Syarikat Prasarana's Code Romeo (Riot or Civil Disturbance) which states that Field Operations personnel should be prepared to close stations if necessary

on their Code Romeo (Riot or Civil Disturbance) (**Exhibit 62(b)**), under which, as stated in section 10.10.1, the Field Operations personnel should be prepared to close stations if necessary.

- 8.8 W41 received a report from his staff that a riot had occurred around the Masjid Jamek's station. Based on his observation through the CCTV, he noted that the situation had got out of control, and upon making that assessment, ordered all main entrances at the Masjid Jamek's station to be closed. The other stations which were also closed during the assembly were Dang Wangi, Pasar Seni (Kelana Jaya Line), Plaza Rakyat, Bandaraya and Sultan Ismail (Ampang Line).
- 8.9 W41 decided to revoke Code Romeo when the situation had returned to normal. He then ordered the stations at Masjid Jamek, Plaza Rakyat and Bandaraya to be reopened at 5.30 pm but soon after, the police ordered him to re-close the Masjid Jamek station.

Medical Team/Personnel

- 8.10 The role of the medical teams was to give immediate pre-treatment to all injured participants. Based on the testimony of Dato' Ambiga Sreenevasan (W48), the organiser had arranged approximately 200 medical personnel and stationed them at designated meeting points namely Brickfields, Jalan Sultan, Masjid Negara, Pasar Seni, Masjid India, KLCC and in the vicinity of Dataran Merdeka. A few ambulances were stationed around Menara DBKL and Jalan Sultan.
- 8.11 Based on the testimony of Khairul Anuar Pawanchik (W3), a member of Bulan Sabit Merah Malaysia (BSMM), he was ordered to provide mineral water to the participants along Medan Tuanku, Jalan Tunku Abdul Rahman (Jalan TAR), PERTAMA Complex building, at the corner of the SOGO building and Jalan TAR and lastly at Jalan Raja Laut. He was on duty at 3.00 pm on that day.
- 8.12 According to the testimony of Dr. Siti Makkiah binti Yunus (W24), the Emergency Unit of Hospital Kuala Lumpur had also made early preparations to receive patients from the assembly. A number of doctors as well as several staff and paramedic were on duty at the area of the assembly.

Monitoring Team

- 8.13 The primary aim of the monitoring team was to observe and record what happened on that day and to report accordingly. There were several monitoring teams on 28 April 2012 including the teams from SUHAKAM, the Malaysian Bar and SUARAM.

- 8.14 According to Christopher Leong Sau Foo (W40), he was part of the Malaysia Bar Monitoring Team. There were about 78 lawyers who volunteered to be part of the monitoring team. They were divided into teams and assigned to different locations. There were also a roving monitoring team. The locations⁴⁴ were as follows:
- i) KLCC
 - ii) Masjid Jamek
 - iii) Jalan Sultan
 - iv) Central Market
 - v) Brickfields
 - vi) Masjid Negara
- 8.15 The Malaysian Bar teams were briefed before carrying out their monitoring activities. The teams were reminded to identify themselves as observers at all times and were not allowed to participate in the assembly.
- 8.16 The observers were required to wear black/dark attire and they were supplied with a tag with the Malaysian Bar's logo and the words PEMERHATI/OBSERVER on it.
- 8.17 W40 informed the Panel that the Malaysian Bar had written to the Inspector-General of Police informing him of their desire to monitor the assembly. However, there was no response to that letter.
- 8.18 Meanwhile, according to the SUHAKAM's report, there were 16 officers and staff on duty on 28 April. They were divided into 7 teams and stationed at the various meeting points as mentioned above. They were given instructions to monitor the assembly and record any human rights violations, if any. The monitoring team prepared a report, which the Commission took into consideration, among others, when deciding on the need for a public inquiry into the events of 28 April.

Panel's Observations

- 8.19 The Panel was informed that unlike the previous Bersih 2.0 assembly of 9 July 2011, there was no prior meeting between the police and the LRT operator, resulting in the lack of co-ordination and conflicting decisions. This was most evident when Tuan Hj Khairani bin Mohamed (W41) ordered the cancellation of Code Romeo at 5.30 pm, only to be ordered by the police to close the LRT stations again. The effect of the closure was to prevent the participants who wanted to leave the area from dispersing.

⁴⁴ The meeting points for the participants

- 8.20 The Panel commends the medical team both on the ground and in the hospitals who were on stand-by to assist those who needed medical attention and treatment.
- 8.21 The role of monitoring teams is important to observe any public assembly as independent parties and provide accounts of incidents that may occur. However, the Panel notes that the monitoring team from the Malaysia Bar was not recognised, which may have hampered in some way their monitoring activities.

Recommendations

- 8.22 For the purpose of crowd management and facilitation of any public assembly, there must be co-ordination and co-operation among all the various parties involved. These include the police, the organiser, the hospitals and their medical teams, and the operators of public transport. It is recommended that prior to any public assembly, more so, where huge crowds are expected, there should be meetings among all the relevant parties to plan and co-ordinate events on the day in question to ensure the proper exercise of the freedom to assemble peaceably, the maintenance of public security and order, and the safety and convenience of all other parties.
- 8.23 The LRT personnel must be equipped with skills and safety gadgets in handling crowds especially in times of emergency.
- 8.24 The role of monitoring teams as independent observers must be given due recognition and they must be allowed to monitor the assembly without any difficulty or hindrances.
- 8.25 The PAA 2012 should be reviewed with regard to the presence, roles and functions of the monitoring team.

It is hereby affirmed that the findings and recommendations as contained in this Report are the decisions of the Commissioners comprising the Panel of Public Inquiry.



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DATUK DR. KHAW LAKE TEE
(Chairperson)



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PROFESSOR EMERITUS DATO' DR. MAHMOOD ZUHDI BIN AB MAJID
(Member)



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DETTA SAMEN
(Member)

Dated: 15 August 2013



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