

LCQ 1: IPCC's work

Following is a question by the Hon Hui Chi-fung and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (November 20) :

Question:

The movement of opposition to the proposed legislative amendments (the movement) has not subsided since its eruption in June this year. It has been reported that as revealed by the findings of a number of public opinion surveys, more than 70 per cent of members of the public support the appointment of a commission of inquiry by the Government under the Commissions of Inquiry Ordinance to inquire into issues relating to the movement. However, the Government has all along merely indicated that the matters relating to the various large-scale public events and the operations conducted by the Police have been referred to the Independent Police Complaints Council (IPCC) for examination, and that IPCC would submit a report together with improvement recommendations. As all members of IPCC are appointed by the Chief Executive, some members of the public consider that IPCC has a pro-government stance and they have little confidence in the independence of IPCC's work. In this connection, will the Government inform this Council:

(1) among the complaints received by the Complaints Against Police Office in each of the past three years, of the number and percentage of substantiated cases, and among the complaints involving accusations of assault, the number and percentage of substantiated cases;

(2) given that IPCC is not empowered to summon witnesses and carry out investigations, how the Government ensures that the report to be published by IPCC in future will provide a comprehensive and an objective analysis of the causes of the movement, and that IPCC will reach an objective and an impartial conclusion about whether or not police officers have used force excessively; and

(3) in respect of conducting inquiries into issues relating to the movement, whether it has assessed the merits and demerits for the relevant work to be taken up by an independent commission of inquiry or by IPCC, whose members' independence has been called into question; if so, of the outcome?

Reply:

President,

Under the Independent Police Complaints Council Ordinance (IPCC Ordinance) (Cap. 604), the statutory functions of the Independent Police Complaints Council (IPCC) include observing, monitoring and reviewing the handling and investigation of reportable complaints by the Complaints Against

Police Office (CAPO) and making recommendations on the handling and investigation of complaints. IPCC may also identify any fault or deficiency in any practice or procedure adopted by the Police that has led to or might lead to reportable complaints, and make recommendations to the Police and/or the Chief Executive (CE). The mechanism of complaint against the Police is a well-established two-tier statutory mechanism, with the first tier being CAPO of the Police which receives and investigates complaints; and the second tier being IPCC which is a statutory body. The two-tier complaint mechanism operates effectively under IPCC Ordinance, which provides a clear legal basis to ensure that complaints against the Police will be handled in a fair and just manner.

Under the two-tier mechanism, when CAPO, the operation of which is independent of other units of the Police, has completed the investigation of a reportable complaint, it will submit a detailed investigation report for IPCC's scrutiny. If IPCC is of the view that there is deficiency in CAPO's handling and investigation, it may request CAPO to make clarification or further investigation. Meanwhile, IPCC may convey its views and recommendations to the Commissioner of Police and the CE in respect of any complaint case.

IPCC has been monitoring and scrutinising CAPO's work in handling and investigating complaints comprehensively along the principles of fairness, justice and impartiality. IPCC is composed of non-official members from various sectors of the community, including Legislative Council members. With their rich experience in the community and public service, IPCC members directly monitor the Police's work in complaint investigation in an in-depth and objective manner, and are supported by an independent full-time secretariat. Doubts about the independence of IPCC are unfair to its members and observers who have been profoundly dedicated to monitoring the Police's work in complaint investigation.

Since June 9 this year, more than 800 protests, processions and public assemblies have been staged in Hong Kong. In response to public concerns regarding law enforcement actions by the Police in major public order events (POEs), IPCC has, pursuant to the powers conferred by IPCC Ordinance, proactively initiated a study on the major POEs in Hong Kong since June 9 and the corresponding actions taken by the Police, and established a Special Task Force and an International Expert Panel to this end. IPCC will announce the progress of the study by phases, and has stated that it would endeavour to submit the preliminary report of the study to the CE and publish the relevant details within the original timeframe (i.e. early 2020). The Government will closely monitor and carefully study IPCC's reports and its recommendations in order to decide on the follow-up action.

Meanwhile, the CE announced on September 4 this year four actions to help Hong Kong move forward. One of the actions is to invite community leaders, professionals and academics to independently examine and review the society's deep-seated problems and to advise the Government on the solutions. The independent review panel will examine the underlying causes of the social incidents in the past few months so as to stocktake and study

the different deep-rooted society conflicts, and recommend solutions. The Government is undertaking the preparatory work and will start work on the independent review panel as soon as practicable after the situation has stabilised somewhat.

My reply to various parts of the Member's question is as follows:

(1) In 2015/16, 2016/17 and 2017/18, CAPO handled 3,360, 2,807 and 2,872 allegations respectively, of which 81, 49 and 68 allegations were "substantiated", accounting for 2.4 per cent, 1.7 per cent and 2.4 per cent of the total number of allegations received during the years concerned. Three hundred and forty-six, 245 and 181 allegations involved "assault" respectively, of which one, zero and one allegations were "substantiated", accounting for 0.3 per cent, 0 per cent and 0.6 per cent of the total number of allegations involving "assault".

(2) and (3) IPCC operates independently and discharges its statutory functions under IPCC Ordinance. Regarding the study on recent major POEs, IPCC has set up multiple channels, including those through e-mail, a hotline, mail and an electronic platform, for stakeholders (including the media and members of the public) to provide information relevant to recent major POEs, so as to help IPCC examine and clarify the events concerned. The Special Task Force established by IPCC has held a number of meetings with the Police, which have all along been providing IPCC with information regarding police operations in the POEs. IPCC has also invited international experts to provide international experience and advice with a view to enriching its study from another angle.

According to its statement, as at October 4 this year, IPCC had received more than 11,800 submissions containing more than 41,400 items of information. As at November 18 this year, 372 "Reportable Complaints" and 762 "Notifiable Complaints" stemming from major POEs had been received. The investigation work for each complaint is closely monitored by IPCC and its 120 Observers.

IPCC's study and monitoring work as aforementioned are arduous and complex, and the relevant events are still evolving. We need to give IPCC the necessary time and room so that it can focus on completing its work. The Government will cooperate fully with IPCC and ensure that the IPCC Secretariat is provided with adequate resources to carry out its work. The report to be submitted by IPCC to the CE will be made available to the public for examination in detail.

We understand the community's concerns about the recent major POEs and the proposals put forward for reviewing the underlying causes of the social incidents in the past few months, identifying deficiencies and deep-rooted social conflicts, etc., such as establishing committees of different natures (including the one referred to in part (3) of the question), or a "Riots Communities and Victims Panel" modelling on the experience of the United Kingdom. I should stress that the purpose, nature and scope of the current study of IPCC are different from and cannot be directly compared to those of

the different organisations mentioned above. IPCC has the statutory function to identify any fault or deficiency in any practice or procedure of the Police that has led to or might lead to reportable complaints, and make recommendations. It also has sufficient experience to focus on the handling of complaints against the Police. We are of the view that IPCC should be allowed to perform its functions under the established mechanism, and to report on and publicise its study. The Government will accordingly consider the relevant findings and follow up as appropriate.

Thank you, Mr President.