

LCQ1: Subdue arrestee by police officer

Following is a question by Hon Chu Hoi-dick and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (July 8):

Question:

In 2012, a police officer dragged a taxi driver into a police car by means of a chokehold, causing him to suffer from a cervical vertebra dislocation, and the man subsequently died. In handling the activities against the proposed legislative amendments in recent months, police officers often subdued demonstrators by means of kneeling on their necks. In May this year, a man who had been knelt on the neck died a day after his arrest. Regarding police officers' use of force in the form of chokeholds such as kneeling on one's neck, will the Government inform this Council:

(1) of the number of occasions, since January last year, on which police officers used force in the form of chokeholds to subdue arrestees, and the number of persons who sustained injuries or died consequently;

(2) whether the Police has stipulated the circumstances under which police officers may use force in the form of chokeholds; if so, of the liabilities to be borne by a police officer for inappropriate use of such form of force which causes injuries or death to an arrestee; and

(3) given that an incident in May this year in which an African American died after being knelt on the neck by a police officer in the United States has sparked nationwide protests, and the relevant authorities of a number of states and cities in the United States have subsequently banned the use of force in the form of chokeholds by police officers, whether the Hong Kong Government has plans to ban, by way of an executive order or enactment of legislation, the use of force in the form of chokeholds by police officers; if so, of the details; if not, the reasons for that?

Reply:

President,

The preamble of the question mentions two cases. Regarding the case in 2012, as there is an on-going judicial review, it is inappropriate for us to draw any conclusion about or discuss its outcome. As regards the case in May this year, the subject was searched for committing criminal damage. He resisted and struggled strongly. Police officers, with the help of passers-by, brought him under control and arrested him for suspected possession of drugs, criminal damage and attack on police officers. He was sent to the hospital as he was feeling unwell and died in the hospital on the following day. The autopsy by the Forensic Pathologist indicated neither fractures nor

damages to the internal organs. The cause of death is subject to further toxicological testing and investigation. The Police will submit an investigation report to the Coroner for handling and scrutiny after completing the investigation. We should not make any speculation on the cause of death at this stage.

My consolidated reply to the question is as follows:

According to section 10 of the Police Force Ordinance (Cap. 232), the Police have the responsibility to adopt lawful measures to maintain public safety, public order, as well as safeguard people's life and property. The Police will, in light of the circumstances at the scene, make assessments and exercise professional judgment to take appropriate actions, including using the necessary force, to ensure public safety and public order.

Police officers must comply with the use of force principles when using force, i.e. they may use minimum force as appropriate only when such an action is absolutely necessary and there are no other means to accomplish the lawful duty. Police officers will give warning prior to the use of force as far as circumstances permit, while the person(s) involved will be given every opportunity, where practicable, to obey police orders before force is used.

Every newly recruited or serving police officer has to go through rigorous training on the use of force. The purpose of the training is to allow officers to fully understand how to use different levels of force in a safe and effective manner, including the use of verbal advice / verbal control, empty-hand control, oleoresin capsicum foam, batons and firearms, as a means to achieve the relevant lawful purpose. Police officers will exercise a high level of restraint at all times and cease to use force once the purpose is achieved.

According to the Police's guidelines, if an arrestee is injured at the scene of crime or during arrest, treatment will be arranged for that person. In addition, as prescribed under the Coroners Ordinance (Cap. 504), there are 20 types of deaths which must be reported to the Coroner, including deaths which occurred during the course of arrest or detention. The Police have always strictly complied with the statutory requirements. Regarding the two cases mentioned in the preamble of the question, the Police precisely follow the Coroners Ordinance in carrying out detailed investigation, and making a report to the Coroner for his consideration and decision in respect of whether a death inquest is required.

The question raises enquiries about the so-called "chokeholds". As I have said above, the force used by police officers under all circumstances must comply with the use of force principles. Details of the use of force (including the methods and equipment etc.) should not be disclosed in order not to affect the efficacy of the Police's operation. However, the force used by police officers must be for the purpose of accomplishing lawful duties in order to respond to the prevailing situation at the time. The force used by police officers should adhere to the two important principles of proportionality and necessity. Every police officer must be responsible for

the force he/she uses. Due consideration should be given to these elements when using force.

It is inappropriate for us to disclose the operational details of the Police's use of force. I must reiterate that the level of force to be used by police officers under a particular circumstance depends on the facts and situation at that time. The necessary force to be used depends on the threat and resistance faced by police officers under the circumstances at the time.

If any police officer is found to have used inappropriate force which is in breach of the law and police guidelines, the management of the Police will follow up in a serious manner.

The Police have always reviewed the guidelines and code of practice on the use of force from time to time. Factors for consideration include the principles of proportionality and necessity, as well as how to strike a balance among various factors such as the risks to suspects, threats to police officers' personal safety, operational needs, the gears being equipped with at the time, how many police officers are available for assistance at the scene, etc. With regard to "the use of force in the form of chokeholds" as mentioned in the question, currently the Police do not have any plans to ban such use by police officers. The considerations and decisions regarding the use of force by police officers in different places are made in accordance with the actual circumstances.

Besides, there is no death case in relation to the circumstances mentioned in part 1 of the question. As regards the other figures mentioned in the question, the Police do not keep the statistics.

Thank you, President.