

LCQ14: Police have established guidelines on use of force

Following is a question by Dr the Hon Fernando Cheung and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (May 27):

Question:

In 2012, a taxi driver who struggled when being arrested was dragged into a police car by a police officer by means of a chokehold, which caused the driver to suffer from a cervical vertebra dislocation and die after hospitalisation for about one month. It has been reported that on the 7th of this month, some passers-by witnessed that a police officer, when arresting a man suspected of having criminally damaged vehicles, pinned down that man by kneeling on his neck for more than two minutes. Subsequently, that man was sent to the hospital for treatment and died on the following day. On the 10th of this month, a police officer held a journalist by a chokehold for about 20 seconds when subduing her, causing her to pass out for a while; and another police officer pinned down a Member of this Council by kneeling on his neck when arresting him, who was subsequently sent to the hospital for treatment. There are comments that police officers using the "neck restraint" (NR) technique such as a chokehold and kneeling on a person's neck will easily cause serious bodily harms (e.g. serious damage to the anterior throat structures, cervical vertebra dislocation and fractures) or even death by asphyxiation to such person. In this connection, will the Government inform this Council:

(1) whether the Police have formulated guidelines setting out the principles for using the NR technique; given that the Hong Kong Police Force Procedures Manual sets out the options of force to be used corresponding to six levels of resistance, of the level(s) of resistance that has been mounted by a person after which police officers may apply such technique to that person;

(2) of the number of occasions in the past five years on which police officers used the NR technique for making arrests, and the number of cases in which the arrestees concerned sustained injuries or died as a result, with a breakdown by nature of such cases;

(3) of the number of complaints about police officers' improper use of NR received in the past five years by the Complaints Against Police Office (CAPO) of the Police; among such cases, the number of those found substantiated, and the penalties imposed on the police officers concerned; and

(4) whether it knows, in respect of the reportable complaint cases involving the use of NR, (i) the number of occasions on which the Independent Police Complaints Council (IPCC) raised queries to and requested clarification or

provision of more information from CAPO, and (ii) the number of cases in which the investigation results were eventually not endorsed by IPCC, in the past five years?

Reply:

President,

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 minimum force as necessary, to ensure public safety and public order.

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

(1) The Police have established guidelines on the use of force, including the response to different levels of resistance. Force is used by the Police in response to the prevailing circumstances at the scene, and how it is used depends on the resistance perceived by police officers based on the threat and circumstances at the time.

It is not appropriate to disclose the concrete details of the use of force in order to avoid affecting the effectiveness of the Police's enforcement. However, 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 verbal 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 in order to fully understand how to use different levels of force in a safe and effective manner as a means to achieve the relevant lawful purposes. Police officers will exercise a high level of restraint at all times and cease to use force once the purpose is achieved.

(2) 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 the discharge of duty by a person having statutory powers of arrest or detention. The Police have always strictly complied with the statutory requirements.

In the past five years (2015-2019), there was one case in which a suspect died while being subdued by a police officer. The man in the case attempted to attack a staff member of a shop with a knife. After giving

warnings but in vain, a police officer fired a shot at the man. The Police have submitted a death report to the Coroner. Given that the judicial proceedings are still underway, it is not appropriate for us to comment on the details of the case.

The Police do not maintain the statistics requested in the question.

(3) & (4) Overall speaking, from 2014/15 to 2018/19, the Independent Police Complaints Council (IPCC) received investigation reports of a total of 8 435 new reportable complaints from the Complaints Against Police Office (CAPO). During the same period, IPCC endorsed the investigation results of 8 719 reportable complaints involving 15 593 allegations, among which 330 were "substantiated" allegations. Among the cases endorsed by IPCC, a total of 615 police officers in 443 cases were subject to disciplinary proceedings or other internal actions.

During the above period, IPCC raised a total of 4 381 queries to CAPO, among which 1 401 involved IPCC seeking clarification on the information in investigation reports (e.g. requesting CAPO to provide more information on the background of the complaint). During the same period, there were no investigation results of complaints that were not endorsed by IPCC.

CAPO categorises the allegations involved in the complaints as follows:

1. Neglect of duty;
2. Misconduct/improper manner/offensive language;
3. Assault;
4. Unnecessary use of authority;
5. Threat;
6. Fabrication of evidence;
7. Police procedures; and
8. Other offences.

The Police do not keep statistical records of the category mentioned in the question.