

LCQ17: Handling of arrested persons by Police

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

Question:

It has been reported that on the 7th of this month, a drunken man suspected of having criminally damaged vehicles put up resistance while being arrested. As such, he was pinned down by police officers who knelt on his neck, back and hands, and beat him with batons. After being subdued, that man was sent to the hospital for treatment and died on the following day. In this connection, will the Government inform this Council:

(1) of the reasons why the Police, before conducting any investigation into the aforesaid incident, claimed in reply to media enquiries on that night that the force used by the police officers was "appropriate force";

(2) whether the Police have embarked on internal and criminal investigations into the incident; if so, whether the investigations have been completed; if so, of the outcome, including whether any police officer has been punished (e.g. interdiction) or transferred; if so, of the ranks and number of the police officers involved, as well as the details of the punishments; if no police officer has been punished, of the reasons for that;

(3) 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 of resistance to which the force used by the police officers in the aforesaid incident corresponds;

(4) given that the Police guidelines on the use of force stipulate that police officers may use minimum force as appropriate only when (i) such an action is absolutely necessary and (ii) there are no other means to accomplish the lawful duty, whether the Police have assessed if the use of force by the police officers in the aforesaid incident complied with such principles;

(5) given that in 2012, as a taxi driver became agitated and kept struggling when being arrested, he was dragged into a police car by a police officer by means of a chokehold, who thus suffered from a cervical vertebra dislocation and died after one month, and a Coroner's Court handed down a judgement in 2018 that the driver had been "unlawfully killed", whether the Police have, in the light of that incident, (i) improved the relevant codes and guidelines governing police officers' handling of persons who have lost their self-control ability (e.g. that police officers should refrain or be forbidden from pressing the vital parts of the body (such as the neck) of the persons they intend to arrest), and (ii) provided relevant training to police

officers, so as to prevent the recurrence of similar incidents; and

(6) whether there are relevant provisions and codes in the existing Police Force Ordinance (Cap 232) and the Police General Orders that (i) instruct police officers on how to handle persons who have lost their self-control ability under the influence of alcohol, and (ii) prohibit police officers from using force in the form of a chokehold (including air choke and blood choke) on any person in the course of making an arrest; if so, of the details?

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) to (4) In the afternoon of May 7, uniformed officers of Yau Tsim Police District were being asked for help by pedestrian(s) about an alleged criminal damage by a non-ethnic Chinese male when patrolling along the Nathan Road. The man was later stopped and searched by police officers. During the process, the man resisted and struggled violently, and attacked the police officers. Finally, the police officers, with the help of pedestrians, brought him under control by using appropriate force and carried him to the police car for further search and investigation. The man was arrested on suspected criminal damage, possession of drugs and attack on police officers. As the man was feeling unwell, the police officers called an ambulance and had him sent to the Queen Elizabeth Hospital for treatment. The man was certified dead on May 8.

The case is being investigated by the Regional Crime Unit of Kowloon West. The Police have arranged for a Forensic Pathologist to perform an autopsy on the deceased. Initially, neither fractures nor damages to the internal organs of the deceased were found. The cause of death is subject to further toxicological testing and investigation. The Police will submit the investigation report to the coroner for handling and scrutiny after completing the investigation. The report will include the cause of the deceased's death and the circumstances of the police officers' use of force.

In order not to prejudice the investigation and judicial proceedings in future, it is inappropriate for us to comment on the details of the case.

(5) The jury of a death inquest in 2018 recommended that police officers be trained on the techniques of carrying arrested persons to police cars.

Currently, every newly recruited or serving police officer must undergo rigorous training on the use of force, including how to handle suspects

resisting arrest as well as the basic techniques and methods for carrying arrested persons under general circumstances.

(6) 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.