

LCQ2: Police officers' discipline and integrity

Following is a question by the Hon Andrew Wan and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (November 4):

Question:

It has been reported that during the trials of cases relating to the movement of opposition to the proposed legislative amendments, some magistrates criticised the police officers who had given evidence as not being honest and reliable witnesses, and even as "covering one lie with another lie" and "not duly performing their duties". Moreover, some police officers were alleged to have "aligned their testimonies" because the testimonies they gave had striking similarities. Besides, some police officers were alleged to have enforced the law improperly when handling social incidents, including violently treating members of the public (some of whom were pregnant women and children), Members of the Legislative Council and the District Councils as well as journalists, arbitrarily charging people at the scene for violating the "No-gathering Order", and indiscriminately arresting people. In this connection, will the Government inform this Council:

(1) given that some police officers were alleged to have poor performance when giving evidence in court, whether the Government will request the Secretary for Justice and the Secretary for Security to apologise to the public for this;

(2) in respect of those police officers who were criticised by the court for their performance in giving evidence, of the follow-up actions taken by the Police, including whether prosecutions have been instituted against the police officers suspected of having breached the law; if so, of the number of prosecutions instituted against such police officers last year; if not, the reasons for that; and

(3) given that in recent months, some police officers were alleged to have enforced the law improperly and were charged for various offences (e.g. drug trafficking, criminal damage, assaults and indecent assaults), whether it has assessed if there have been harbouring and connivance by some senior government officials, resulting in such a situation; if it has assessed and the outcome is in the affirmative, of the officials involved; whether it has reviewed if the conduct of police officers has been deteriorating, and the effectiveness of the work of the Police's Integrity Audit Action Group?

Reply:

President,

Section 10 of the Police Force Ordinance (Cap. 232) stipulates that the duties of the police force include taking lawful measures for preserving the public peace, preventing and detecting crimes and offences, as well as preventing injury to life and property. The law applies to all places in the territory and nowhere is above the law. Therefore, if anyone contravenes the law anywhere in Hong Kong, it is the statutory duty of the Police to take actions. I do not agree with the allegations in the question that police officers have treated members of public, Council members or journalists violently. I further disagree with any allegation of arbitrary prosecutions or arrests. Police actions are made having regard to the actual circumstances. The use of force is also based on actual needs. Prosecutorial decisions are based on facts and evidence as well as relevant legal advice.

The Police attach great importance to the conduct and behaviour of their officers. Police officers must meet the requirements on behaviour and discipline, and must uphold the Police's values in areas such as impartiality and professionalism. The Police have put in place the Integrated Integrity Management Framework to promote integrity and honesty among officers, as well as to regulate their discipline and conduct. To further enhance the efficacy of integrity management, the Police established the Integrity Audit Action Group (IAAG) in May this year, with a view to making the work of integrity management more targeted.

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

(1) In trial, the judge's comment and determination on the performance of a witness is based on the evidence given in a case. Therefore, any comment on a witness of a particular case only apply to that case. In fact, judges in some other trials had accepted police officers' evidence and regarded them as honest and reliable witnesses.

I must point out that among the prosecutions relating to the violent and illegal acts since June last year which legal proceedings have been concluded, as at October 15, 2020, over 80 per cent of the persons have to bear legal consequences, including conviction with sentence or bind-over order granted by the court.

(2) If the court has commented on a case, the Police will consider the comments and see if any follow-up action is required. Where the court deems it necessary to refer the case to the Department of Justice for follow-up, the Police will conduct an investigation according to the actual situation.

But I have to point out that in the case of a criminal trial, the court's refusal to accept the evidence of a witness could be due to different factors, for instance, the witness's unclear memory or the presence of some blanks in the description and thus a reasonable conclusion cannot be drawn; or the evidence given by the witness is more of subjective impression than objective facts and the like. Therefore, one cannot arbitrarily concluded that there must be a breach of law.

The Police have an established mechanism to regulate officers' conduct and discipline. The Police will undertake a disciplinary review against any breach of discipline (including cases referred by the court) and impose penalties as appropriate. In the past five years, disciplinary actions were taken against two officers whose credibility of evidence was questioned by the court. The Police Force issued a minor offence report to one of the officers; whilst the other officer was given a punishment of "Reprimand" subsequent to disciplinary proceedings. During the same period, no police officer was prosecuted for perjury under section 31 of the Crimes Ordinance (Cap. 200).

Besides, if any person considers there is any misconduct in police or have any dissatisfaction towards police conduct, he or she may lodge a complaint. The Complaints Against Police Office will conduct follow-up investigation according to established procedures, and shall then report to the Independent Police Complaints Council (IPCC) and submit an investigation report in accordance with the Independent Police Complaints Council Ordinance (Cap. 604). IPCC will scrutinise the reports to ensure that all complaints are handled in a fair manner.

(3) The Police attach utmost importance to the discipline and integrity of police officers. All police officers, irrespective of their ranks, whose discipline is regulated by the Police (Discipline) Regulations (Cap. 232A) and the Police General Orders, must also observe relevant civil service regulations.

The Police established the IAAG on May 29 this year to further strengthen integrity management. The objectives of IAAG include:

- (1) to proactively investigate cases of suspected serious breach of discipline or even illegal acts of officers;
- (2) to identify work procedures with potential risks for rectification as early as possible; and
- (3) to enhance the monitoring and supervision regime on the behaviour and conduct of officers.

Since its establishment, the IAAG has been proactively examining cases of suspected breach of regulation or discipline involving Force members. Apart from undertaking the Supervisory Accountability Study, the IAAG has also been continuously reviewing the Police's existing workflow and optimising related procedures. In addition, the IAAG is actively conducting researches and implementing new integrity management measures so as to deepen the Police's integrity management culture developed over the years and prevent misconduct. These measures include requesting officers who wish to be considered in the 2021-22 promotion exercises for ranks above inspector to submit a declaration on their personal financial status starting from the third quarter of this year.

In late October this year, the Police rolled out a voluntary drug test scheme in the Force to further foster its integrity management culture and maintain public confidence in the Force. The first phase of the scheme

targets police officers in sensitive units. The Police management (from the Commissioner of Police to the Assistant Commissioners of Police) had given a lead on undergoing the tests, and they were all tested negative.

Police management will not tolerate any acts of breach of the law or discipline by police officers. Supervisors are required to carry out stringent supervisory duties. The Police will investigate all cases of breach of the law or discipline in a serious manner, handling them fairly and impartially. If any officer is suspected to have committed a breach of discipline, the Police will conduct investigation according to the established mechanism and decide whether to take disciplinary action in accordance with the investigation results. In 2019, a total of 28 police officers were punished for breaching disciplinary offences. A drop is observed when compare with 55 police officers in 2018 and 43 police officers in 2017. I do not agree with the unreasonable allegation that there is a drop in the standard of police conduct. The Police's existing integrity management system is proactive and serious, and will bring positive effects in promoting the integrity culture.

The Police are a professional disciplined force. I appreciate that members of the public have very high expectation towards the conduct and discipline of police officers. The Police have rigorous discipline and regime to manage the conduct and behavior of officers. The breach of discipline or illegal act of individual officers departs from the values of the Police. We should not, due to the extremely small number of isolated cases, obliterate the contribution and efforts of the overall police officers who remain dedicated to their duties.

The Police are committed to serving the community, maintaining law and order, as well as safeguarding the life and property of citizens. The Police will continue to uphold and reinforce such core values as integrity, fairness, impartiality and professionalism, with a view to consistently enhancing public trust and confidence in the work of police officers.

Thank you President.