

LCQ12: Police officers' law enforcement actions involving the opposite sex

Following is a question by Dr Hon Helena Wong and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (July 8):

Question:

It has been reported that in November last year and May this year, a number of male police officers entered the female public toilets at Chatham Road South in Tsim Sha Tsui and at Fa Yuen Street in Mong Kok respectively, and arrested several women therein. In addition, quite a number of demonstrators and arrestees, who had participated in the movement of opposition to the proposed legislative amendments, alleged that they had been sexually harassed or sexually assaulted by police officers. In this connection, will the Government inform this Council:

(1) whether the guidelines issued by the Police to police officers have stipulated the circumstances under which they may enter toilets for the use of the opposite sex to enforce the law; if so, of the details, including whether it has been provided that they must be in the company of police officers of the opposite sex;

(2) as it is stipulated in section 7 of the Public Conveniences (Conduct and Behaviour) Regulation (Cap. 132 sub. leg. BL) that no male person shall enter any part of any public convenience which is allocated for the use of female persons, and no female person shall enter any part of any public convenience which is allocated for the use of male persons, whether such requirement is applicable to those police officers who are enforcing the law; if so, whether the Police will take disciplinary actions against the aforesaid police officers; if not applicable, of the reasons for that;

(3) of the number of incidents last year in which police officers entered public toilets for the use of the opposite sex to enforce the law, and the following details of each incident: (i) the date and time, (ii) the law enforcement action involved, (iii) the number of police officers involved, and the rank(s) and police district(s) to which they belonged, and (iv) whether the Police conducted any internal investigation subsequently (if so, of the latest progress);

(4) of the number of complaints received by the Police last year about police officers' committing acts of sexual harassment and sexual assault when enforcing the law, as well as the following details of each case: (i) the nature of the complaint, (ii) the number of police officers involved, and the rank(s) and police district(s) to which they belonged, and (iii) the number of victims involved; and

(5) whether it knows the number of complaints received by the Equal Opportunities Commission last year about police officers' committing acts of sexual harassment and sexual assault when enforcing the law, as well as the following details of each case: (i) the nature of the complaint, (ii) the number of police officers involved, and (iii) the number of victims involved?

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 public safety, preventing and detecting crimes and offences, as well as preventing injuries to life and property. The Hong Kong 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.

My reply to various parts of Dr Hon Helena Wong's question is as follows:

(1) to (3) If a person is suspected to have committed a criminal offence or breached social peace in public or private premises (including areas in public toilets), the Police have the power to enter into such premises to take appropriate actions (and is not confined to arrest operations) to prevent a breach of social peace. Police officers will consider the actual situation at scene and purpose of the action, and take legal measures to save lives, protect the safety of citizens and police officers, prevent and detect crimes, arrest suspects or perform other duties. As in the past, the Police will ensure actions taken to be appropriate, legal and justifiable, and will strike a balance between privacy protection and law enforcement. For example, in general, it would be for female police officers to take enforcement actions in female public toilets. Female officers may, in striking a balance between privacy protection and law enforcement, seek assistance from other police officers.

Anyone who is dissatisfied with the enforcement actions of the Police can lodge a complaint with the Complaints Against Police Office (CAPO). CAPO will investigate and handle the complaint in a fair and just manner. The Police do not maintain the information requested in the question.

(4) Sexual violence is a serious allegation. The complainant should formally provide the Police with the information, so that the Police may conduct a full investigation. This would not only protect the interests of the victim but also ensure that the complainee will not be falsely accused, which is fair to both the complainant and the complainee. Both parties shall bear the legal responsibilities and be protected.

The Government attaches importance to combating cases involving sexual offences. The Police have been handling all sexual violence cases with a serious and sensitive professional attitude and have formulated a series of relevant procedures and guidelines to ensure that the rights and safety of

the victims are fully safeguarded, as well as to alleviate the stress and psychological trauma faced by the victims when assisting in the investigation.

When receiving reports of sexual harassment, the Police will examine whether there is any criminal element involved. If yes, the case will be handled as criminal investigation. If no criminal element is revealed, the Police will recommend the complainant to file a complaint with the Equal Opportunities Commission (EOC).

The Police do not have the figures as requested in the question.

(5) The EOC works towards the elimination of sexual harassment in accordance with the Sex Discrimination Ordinance (Cap. 480). Handling of criminal cases concerning sexual offences falls outside the scope of the EOC's statutory functions. After consulting the Constitutional and Mainland Affairs Bureau, according to the information provided by the EOC, the EOC received two sexual harassment complaints involving police officers last year. The two complaints were lodged by the same female complainant and after investigation, the EOC has confirmed both cases to be "lacking in substance" and the investigation had been discontinued. The two cases were handled by the EOC and the case details fall outwith the purview of the Security Bureau.