

LCQ4: Handling of sexual violence cases

Following is a question by the Dr Hon Pierre Chan and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (June 27):

Question:

The number of requests for assistance from sex crime victims received by RainLily has risen continuously in the past 17 years. Only about 10 per cent of the perpetrators in the rape cases involved in such requests were subsequently prosecuted. Regarding law enforcement on crimes of rape and indecent assault, will the Government inform this Council:

(1) whether it knows, in each of the past five years, the respective numbers of victims in rape cases and indecent assault cases receiving treatment or undergoing examinations at the accident and emergency departments of public hospitals, with a breakdown by the gender of the victims and by whether the cases were reported to the Police, as well as the reasons why some victims did not report their cases to the Police;

(2) among the rape cases mentioned in (1), of the number of cases in which the victims gave witness statements to the Police and underwent forensic examinations in public hospitals; the number of cases in which any of the two procedures was not conducted in public hospitals, as well as their respective reasons; and

(3) of the prosecution rates of rape cases in each of the past five years; whether it has assessed if the prosecution rates were on the low side; if it has, of the criteria adopted for and the outcome of the assessment?

Reply:

President,

The Police attach great importance to combating cases involving sexual violence, including cases of rape and indecent assault. In each case, the police will fully investigate, make every effort to protect the victim's rights and safety, and lessen the stress and psychological trauma encountered by the victim when assisting in the investigation.

In the past five years between 2013 and 2017, a total of 367 rape cases were reported in Hong Kong, of which 349 cases were detected and the detection rate was 95.1 per cent. As for indecent assault cases, a total of 5 742 cases were recorded, of which 4 341 cases were detected and the detection rate was 75.6 per cent. The detection rates of rape and indecent assault were higher than the average detection rate of 45.2 per cent for the

overall criminal cases in Hong Kong during the same period.

Since March 2007, the Social Welfare Department (SWD) has launched a 24-hour "one-stop" service for handling sexual violence cases. The "one-stop" services emphasis not only on the location of provision of services to victims, but also offers the victims with necessary services simultaneously and in a synchronised manner as far as possible, including medical care, forensic examinations, statement-taking, other services and support from a social worker, etc, with a view to reducing repeated description of traumatic experience by the victim and providing immediate and appropriate services.

"One-stop" services can be initiated on referral by social workers, medical personnel, police officers or other professionals. They can also be initiated directly by the relevant non-governmental organisations. Where practicably feasible and with the victim's consent, the government will as far as possible arrange for the victim to receive services in a convenient, safe, private and supportive environment, including medical treatment, statement-taking and forensic examination in the public hospital where he/she receives treatment so as to save the victim from the plight of travelling and speed up the investigation process. The victim may choose to be accompanied by social workers or other suitable persons when he/she is interviewed by police officers or undergoes forensic examination. The SWD has a cooperation agreement with the Hospital Authority (HA) to arrange designated rooms in 17 hospitals in Hong Kong to provide "one-stop" services where practicably feasible.

It should be emphasised that when providing "one-stop" services, organisations must examine and take into account the wills of the victims and their actual needs. If the victim only chooses or needs one of the services, the relevant organisations must respect the wills of the victim. Even if the victim accepts one of the services designated by him / her, it is also in line with the spirit of "one-stop" services.

The Government have been closely monitoring the effectiveness of "one-stop" services. The SWD, the Hong Kong Police, and the HA will hold a meeting before the end of this month to examine the existing collaboration among stakeholders and implementation of "one-stop" services, and explore areas for improvement.

My response to the three parts of Dr Hon Pierre Chan's question is as follows:

(1) and (2) Regarding the sexual violence cases received by the Police in the past five years, the numbers of such cases by type of sexual violence and gender of the victims are at Annex I.

The Government does not maintain figures on victims of rape cases and indecent assault cases who received treatment or underwent examinations at the Accident and Emergency (A&E) Department of public hospitals in the past five years. The Government also does not maintain figures on victims of rape cases who gave witness statements to the Police and underwent forensic

examinations in public hospitals in the same period. However, according to the records reviewed by the Police, there were four cases among the rape cases which occurred in 2017 where medical services, forensic examinations and statement-taking were simultaneously provided through "one-stop" services. In other cases, the staff of different organisations had provided some of the services among the "one-stop" services according to the actual needs and the wills of the victims at the material time.

It is the aim of the Police to reduce the stress and psychological trauma encountered by victims of sexual violence when assisting in the investigation. As such, police officers will arrange for the victim to give statement and receive forensic examination in the same public hospital in which he/she receives treatment as far as possible. As the case nature and the victim's wills vary case by case, and at times it may not be feasible to do so, the victims of certain cases will not give statements in public hospitals. Such situations include:

- due to the high occupancy rate of wards, the public hospital is not able to arrange for the necessary facilities immediately. In this connection, the Police have made an enhanced arrangement with the HA. Under the arrangement, police investigating officers may contact the healthcare officer-in-charge on duty in the A&E Department via a direct line to arrange a room to provide "one-stop" services for the victim in advance as far as practicable.
- the case happened long before it is reported, or the victim reports the case at the police station in person and is of the view that immediate treatment in a hospital or forensic examination is not required;
- owing to personal reasons (e.g. emotional problem), the victim requests to first receive treatment in the hospital and/or undergo forensic examination before giving a statement to the Police;
- the Police need to take a statement from the victim by way of video-recorded interview but such facility is not available in the A&E Department of the hospital. For example, if the victim is a child, the Police and the SWD will form a Child Protection Special Investigation Team for joint handling and investigation. The victim will give a statement by way of video-recorded interview at a special interview suite of the Police. Under such circumstances, the room in the hospital is not suitable for conducting the relevant video-recorded interview;
- the victim requests to give a statement at a place with better privacy

within a police station;

- the victim needs an interpreter to assist in the statement-taking, and the personnel providing services cannot immediately arrange an interpreter to assist in the statement-taking; and
- the victim refuses to undergo forensic examination.

In any event, the police will make every effort to ensure that the victim is aware of the procedures that he/she will go through and his/her rights, and will also endeavour to assist and facilitate the victim's utilisation of "one-stop" services where practicably feasible.

(3) After the arrest of a suspect, the Police will consider all the circumstances of the case, such as the statements taken from the victim and witnesses, and the availability of circumstantial evidence, including images from closed-circuit televisions, the result of forensic examination, the medical report of the victim etc. After investigation, the Police will consult the Department of Justice (DoJ) before deciding whether to institute prosecution or not.

As mentioned above, during the past five years (2013-2017), the average detection rate for rape cases was about 95.1 per cent. The numbers of persons arrested and prosecuted for the offence of "rape" under the Crimes Ordinance (Cap 200) in the corresponding period are at Annex II.

As regards prosecution, according to DoJ's Prosecution Code, there is no difference between the consideration for prosecuting cases of sexual violence and that for other crimes. There must be legally sufficient evidence to support a prosecution; that is, such evidence is admissible and reliable and, together with any reasonable inferences able to be drawn from it, likely to prove the offence. The test is whether the evidence demonstrates a reasonable prospect of conviction. A prosecutor must consider the requirements of the public interest. According to the Prosecution Code, public interest includes:

- the attitude, age, nature or physical or psychological condition of the suspect, a witness and/or a victim;
- the likely final disposition of the case; and
- special circumstances that would affect the fairness of any proceedings, etc.

In respect of each rape or indecent assault case, DoJ will holistically consider the actual circumstances and evidence of the case to decide whether to prosecute and, if so, the most appropriate charge. The court will also make a fair decision based on legal principles and evidence.

Thank you, President.