

## 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.

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## **Public hospitals daily update on COVID-19 cases**

The following is issued on behalf of the Hospital Authority:

As at noon today (May 27), one COVID-19 confirmed patient (case number: 1066) was discharged from hospital in the past 24 hours. So far, a total of 1

034 confirmed and suspected patients have been discharged.

At present, there are 659 negative pressure rooms in public hospitals with 1 219 negative pressure beds activated. A total of 28 confirmed patients are currently hospitalised in seven hospitals, among which one patient is in critical condition (case number: 595), and the remaining 27 patients are in stable condition.

The Hospital Authority will maintain close contact with the Centre for Health Protection to monitor the latest developments and to inform the public and healthcare workers on the latest information in a timely manner.

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## **Fraudulent website related to Union Bancaire Priv e, UBP SA**

The following is issued on behalf of the Hong Kong Monetary Authority:

The Hong Kong Monetary Authority (HKMA) wishes to alert members of the public to a press release issued by Union Bancaire Priv e, UBP SA on fraudulent website, which has been reported to the HKMA. Hyperlink to the press release is available on the [HKMA website](#) for ease of reference by members of the public.

Anyone who has provided his or her personal information to the website concerned or has conducted any financial transactions through the website should contact the bank concerned using the contact information provided in the press release, and report to the Police or contact the Cyber Security and Technology Crime Bureau of the Hong Kong Police Force at 2860 5012.

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## **LCQ6: Legislation on Article 23 of Basic Law**

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

Question:

In January this year, the Director of the Liaison Office of the Central

People's Government in the Hong Kong Special Administrative Region (the Liaison Office) published an article in a newspaper, stating that "... we will, as always, continue to support the Government of the Hong Kong Special Administrative Region in establishing and perfecting the legal system and enforcement mechanism of the Special Administrative Region to safeguard national security ...". In addition, some political figures in Hong Kong have recently initiated an online petition to urge the Government of the Hong Kong Special Administrative Region (SAR) to expeditiously enact legislation on Article 23 of the Basic Law. In this connection, will the Government inform this Council:

(1) whether there have been, since January this year, officials from the Liaison Office and other offices set up by the Central Government in SAR, or local political organisations and figures, expressing to any official of the SAR Government the view that there is a pressing need at present for SAR to enact legislation on Article 23; if so, who have put forward such a view and of the relevant details;

(2) whether it has assessed the impacts, to be brought about by the SAR Government's embarking, at the present moment, on the legislative exercise for Article 23, on Hong Kong's political and economic situations and social atmosphere, as well as on the relationship between Hong Kong and the international community; if it has assessed, of the outcome; if not, the reasons for that; and

(3) whether the Chief Executive will undertake that the current-term Government will not commence the legislative exercise on Article 23 within the remainder of its term; if not, of the reasons for that?

Reply:

President,

Regarding the issue of enacting legislation on Article 23 of the Basic Law (BL 23), my consolidated reply in view of the deliberation of the draft Decision on establishing and improving the legal system and enforcement mechanisms for the Hong Kong Special Administrative Region (HKSAR) to safeguard national security (the Decision) recently announced at the third session of the 13th National People's Congress (NPC) is as follows:

HKSAR is an inalienable part of the People's Republic of China. Safeguarding national sovereignty, security and development interests is the constitutional requirement of HKSAR, the duty of the HKSAR Government, and also in the interest of all Hong Kong residents. The SAR has the constitutional obligation to enact legislation on BL 23. While has been almost 23 years since Hong Kong's reunification with China, for various reasons, the SAR still has not enacted legislation on BL 23 and this is very disappointing. Different parties may put forward their views on this matter to the SAR Government and we will not disclose the details.

Different countries have enacted legislation to safeguard national

security, covering the legal system and enforcement mechanisms in respect of national safety. By way of web search, it would be easy to find the laws of different countries which are related to national security; for example, the United States has at least 20 relevant items of such laws which include the National Security Act, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot) Act, Logan Act, Homeland Security Act, Intelligence Reform and Terrorism Prevention Act, Foreign Intelligence Surveillance Act, Foreign Agents Registration Act, Foreign Missions Act, Alien Registration Act and Cybersecurity Information Sharing Act, etc. As regards other jurisdictions, examples include the Treason Felony Act, Official Secrets Act, Political Parties, Elections and Referendums Act, and Security Service Act of the United Kingdom; the National Security Act, Criminal Code, Access to Information Act, Secure Air Travel Act, Canada Elections Act and Canadian Security Intelligence Service Act of Canada; as well as the National Security Law Amendment (Espionage and Foreign Interference) Act, Criminal Code Act, Crimes Act and Foreign Influence Transparency Scheme Act of Australia. This shows that every country has laws and duty to safeguard its national security and sovereignty.

Safeguarding national sovereignty and security is essential to building a stable and safe society. It is only with a stable and safe society that members of the public can live safely and peacefully, the economy can develop steadily, and prosperity can be sustained. The SAR Government maintains that establishing and improving the legal system and enforcement mechanisms for safeguarding national security is beneficial to Hong Kong's economic development and the livelihoods of our people, beneficial to maintaining Hong Kong's long-term prosperity and stability, and beneficial to Hong Kong's fundamental interests.

On 22nd this month, at the third session of the 13th NPC, the deliberation of the Decision was announced. Legislation on national security is undoubtedly within the purview of the Central Authorities. Just as it is in any other country in the world, it is the authority of the country to legislate on its own national security. NPC is the highest organ of state power, and its decisions have the highest authority with legal effect. The SAR Government supports the NPC's deliberation of the Decision, and it is necessary to highlight the following key points regarding the Decision:

First, the SAR Government is firmly committed to safeguarding national security, and legislation is of greatest urgency. In view of the increasingly pronounced national security risks faced by the HKSAR, to legislate on BL 23 has been stigmatised and demonised, and there is difficulty for the executive and legislative authorities of the SAR to complete on their own legislation for safeguarding national security in the foreseeable future. The violence associated with the disturbances arising from the legislative exercise of the Fugitive Offenders Bill since June last year has been escalating, with the emergence of various incidents involving explosives and firearms, which amounts to a risk of terrorist activities, seriously threatening personal and public safety. During this period, organisations advocating "Hong Kong independence" and "self-determination" incited protesters, especially young

people, to desecrate and burn the national flag openly, vandalise the national emblem and storm the Central People's Government's office in Hong Kong, and made plans to mobilise so-called "international support" to interfere with Hong Kong's affairs. These acts smeared the implementation of "One Country, Two Systems" in Hong Kong and openly challenged the authority of the Central Government and the SAR Government. Further, some of the political parties' members proclaimed many times that they would paralyse the SAR Government. Some other people begged for foreign countries to interfere with Hong Kong's affairs and even to impose sanctions on Hong Kong. Such behaviour has crossed the baseline of "One Country", threatening China's sovereignty and national security, and challenging the authority of the Central Authorities and the Basic Law. Although these despicable acts subsided earlier when the epidemic was severe, as the epidemic eases, rioters have returned to the streets of Hong Kong three days ago (Sunday) causing road blockage, criminal damage, arson, beating and chasing citizens, attacking the police, spilling harmful liquids, etc. causing at least 10 people being injured and sent to hospital. Moreover, those advocating "Hong Kong independence" flagrantly waved flags at the scene. This manifests the necessity and urgency for establishing and improving the legal system and enforcement mechanism to safeguard national security, so as to effectively prevent, curb and punish acts that threaten national security.

Second, the Decision will ensure the enduring success of "One Country, Two Systems". "One Country" is the prerequisite for and foundation of "Two Systems". Establishing and improving at the national level the legal system and enforcement mechanisms for HKSAR to safeguard national security will be conducive to safeguarding national security as well as Hong Kong's development, long-term prosperity and stability. Only when national security is safeguarded can "One Country, Two Systems" be faithfully implemented, then the advantages of the "One Country, Two Systems" can be fully utilised to better develop the economy and improve people's livelihood, thereby better protecting the legitimate rights and freedoms of all members of the public in Hong Kong.

Third, the Decision only targets acts of secession, subverting state power and organising and carrying out terrorist activities that seriously threaten national security, as well as activities interfering with HKSAR's affairs by foreign or external forces. These are exactly the situations which the political and business sectors in Hong Kong and members of the public have been extremely worrying about over the past year. The situations have prompted the public to have a deeper understanding on the importance of national security, and also urge the SAR Government to respond proactively. The Decision only targets the small minority of criminals jeopardising national security, while the overwhelming majority of members of the public who are law-abiding will be protected.

Fourth, legislation for national security will endeavour to safeguard the lawful rights and interests of people in Hong Kong. The protection enjoyed by the Hong Kong residents under the Basic Law and other laws, including freedom of speech, press, assembly, demonstrations, processions, etc., will not be affected. The legislation also will not affect the

independent judicial power, including that of final adjudication, exercised by the Judiciary in Hong Kong.

The Decision does not amend the Basic Law, nor does it replace or exclude the provisions of BL 23. As stated in the Decision, "HKSAR should legislate as soon as possible to safeguard national security as required by the Basic Law of Hong Kong". HKSAR, therefore, still has the obligation to legislate as required under BL 23 as soon as possible.

Upon passage of the Decision, HKSAR Government will fully support the work of the Standing Committee of NPC, and to discharge its responsibility of safeguarding national security to ensure the long-term prosperity and stability of Hong Kong under "One Country, Two Systems".

Thank you President.

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## **CHP investigates additional confirmed case of COVID-19**

The Centre for Health Protection (CHP) of the Department of Health has announced that as of 4pm today (May 27), the CHP was investigating an additional confirmed case of coronavirus disease 2019 (COVID-19), taking the number of cases to 1 067 in Hong Kong so far (comprising 1 066 confirmed cases and one probable case).

The newly reported case announced today involves a 24-year-old male who had a travel history during the incubation period. The CHP's epidemiological investigations and relevant contact tracing on the confirmed case are ongoing. For case details and contact tracing information, please see the Annex.

The CHP again urged members of the public to maintain an appropriate social distance with other people as far as possible in their daily lives to minimise the risk of infection. In particular, they should go out less and avoid social activities such as meal gatherings or other gatherings to reduce the chance of contacting infected persons who may not present any symptoms, and minimise the risk of outbreak clusters emerging in the community.

A spokesman for the CHP said, "Given that the situation of COVID-19 infection remains severe and that there is a continuous increase in the number of cases reported around the world, members of the public are strongly urged to avoid all non-essential travel outside Hong Kong.

"The CHP also strongly urges the public to maintain at all times strict personal and environmental hygiene, which is key to personal protection

against infection and prevention of the spread of the disease in the community. On a personal level, members of the public should wear a surgical mask when having respiratory symptoms, taking public transport or staying in crowded places. They should also perform hand hygiene frequently, especially before touching the mouth, nose or eyes.

"As for household environmental hygiene, members of the public are advised to maintain drainage pipes properly, regularly pour water into drain outlets (U-traps) and cover all floor drain outlets when they are not in use. After using the toilet, they should put the toilet lid down before flushing to avoid spreading germs."

Moreover, the Government has launched the website "COVID-19 Thematic Website" ([www.coronavirus.gov.hk](http://www.coronavirus.gov.hk)) for announcing the latest updates on various news on COVID-19 infection and health advice to help the public understand the latest updates. Members of the public may also gain access to information via the COVID-19 WhatsApp Helpline launched by the Office of the Government Chief Information Officer. Simply by saving 9617 1823 in their phone contacts or clicking the link [wa.me/85296171823?text=hi](https://wa.me/85296171823?text=hi), they will be able to get information on COVID-19 as well as the "StayHomeSafe" mobile app and wristband via WhatsApp.

To prevent pneumonia and respiratory tract infection, members of the public should always maintain good personal and environmental hygiene. They are advised to:

- Wear a surgical mask when taking public transport or staying in crowded places. It is important to wear a mask properly, including performing hand hygiene before wearing and after removing a mask;
- Perform hand hygiene frequently, especially before touching the mouth, nose or eyes, after touching public installations such as handrails or doorknobs, or when hands are contaminated by respiratory secretions after coughing or sneezing;
- Maintain drainage pipes properly and regularly (about once a week) pour about half a litre of water into each drain outlet (U-trap) to ensure environmental hygiene;
- Cover all floor drain outlets when they are not in use;
- After using the toilet, put the toilet lid down before flushing to avoid spreading germs;
- Wash hands with liquid soap and water, and rub for at least 20 seconds. Then rinse with water and dry with a disposable paper towel. If hand washing facilities are not available, or when hands are not visibly soiled, performing hand hygiene with 70 to 80 per cent alcohol-based handrub is an effective alternative;
- Cover your mouth and nose with tissue paper when sneezing or coughing. Dispose of soiled tissues into a lidded rubbish bin, then wash hands thoroughly; and
- When having respiratory symptoms, wear a surgical mask, refrain from work or attending class at school, avoid going to crowded places and seek medical advice promptly.