28 February 2020

Amnesty International Hong Kong
Civil Rights Observer
Hong Kong Human Rights Monitor
Rights Exposure
Athan - Freedom of Expression Activist Organization
Cambodian Center for Human Rights
Chinese Human Rights Defenders
CIVICUS: World Alliance for Citizen Participation
Forum Asia
Front Line Defenders
Hong Kong Watch
Human Rights in China
Human Rights Watch
INFORM Human Rights Documentation Centre
Judicial Reform Foundation
Justice and Peace Commission of the Hong Kong Catholic Diocese
Justice Centre
Lawyers' Rights Watch Canada
Maldivian Democracy Network
Odhikar
Open Data Hong Kong
The Leitner Center for International Law and Justice
The Rights Practice
WITNESS

Dear all,

Thank you for your letter of 11 February 2020 addressed to the Chief Executive of the Hong Kong Special Administrative Region (HKSAR). I am authorised to reply.

中華人民共和國香港特別行政區行政長官辦公室
Office of the Chief Executive of the Hong Kong Special Administrative Region of the People's Republic of China
香港添馬 電話：+852 2878 3300 傳真：+852 2509 0580 電郵：ceo@ceo.gov.hk
Tamar, Hong Kong Telephone: +852 2878 3300 Fax: +852 2509 0580 E-mail: ceo@ceo.gov.hk

Freedom and the rule of law are core values of Hong Kong which are firmly anchored in the Basic Law of HKSAR, the Hong Kong Bill of Rights Ordinance and other legislation. The freedoms of assembly, of procession and of demonstration are protected under Article 27 of the Basic Law. Likewise, freedom of the press, of expression and of association are guaranteed rights and freedoms under the same Article.

Members of the public enjoy the said freedoms but must also exercise such freedoms peacefully and lawfully. Since early June last year, more than 1 300 protests, processions and public assemblies have been staged in Hong Kong and many of them ended up in serious violent illegal acts. There were rioters unlawfully blocking roads, paralysing traffic, hurling petrol bombs and setting fires at various locations, throwing bricks, wantonly assaulting people holding different opinions, wounding with intent, vandalising and burning shops, railway facilities and traffic lights etc., which severely endangered public order and public safety. Beset with the difficult and unprecedented situation faced by our city, the Police are duty-bound to take appropriate actions to maintain law and order and apprehend persons involved in any unlawful acts.

Pursuant to section 10 of the Police Force Ordinance (PFO) (Cap. 232), the Police have statutory duties to take lawful measures for preserving public peace and public order, and preventing and detecting crimes and offences. Under section 50 of PFO, a police officer has the power to apprehend any person who the officer reasonably believes will be charged with or whom the officer reasonably suspects of being guilty of an offence for which a person may, on a first conviction for that offence, be sentenced to imprisonment. When a police officer makes an arrest, the officer must act according to the law and in an appropriate manner having regard to the actual situation.

The Hong Kong Police Force have all along exercised restraint in restoring law and order, and will facilitate the conduct of peaceful and lawful public meetings or public processions. The Police have also established guidelines on the use of force which are consistent with the international human rights norms and standards. As for the specific cases mentioned in your letter, the Police need to keep the investigation details of individual cases confidential so as not to affect investigation work and collection of evidence, not to mention disclosing the details to other third parties.

If members of the public wish to lodge complaints against the conduct of police officers, they may do so under Hong Kong's well-established two-tier mechanism of complaint against the Police which has been in effective operation for more than ten years. The first tier is the Complaints Against Police Office (CAPO) of the Police which receives and investigates complaints; and the second tier is the Independent Police Complaints Council (IPCC) which is a statutory body. The two-tier complaint mechanism operates effectively under the Independent Police Complaints Council Ordinance (IPCCO) (Cap. 604), which provides a clear legal basis to ensure that every complaint against the Police will be handled in a fair and just manner.

Under the two-tier mechanism, when CAPO, the operation of which is independent of other units of the Police, has completed the investigation of each reportable complaint, it will submit a detailed investigation report for the scrutiny of the IPCC which is independent. If the IPCC is of the view that there is deficiency in CAPO's handling and investigation, it may request CAPO to make clarification or further investigation. Meanwhile, the IPCC may convey its views and recommendations to the Commissioner of Police and the Chief Executive in respect of any complaint case.

In response to public concerns regarding law enforcement actions by the Police during the large-scale public order events in recent months, the IPCC is proactively conducting a thematic study pursuant to the power under IPCCO. The Chief Executive and the Police have expressed their full support for the study and that they would render co-operation in the course of the IPCC's work. The IPCC will make the decision on publication arrangement of its first interim report as soon as the court has given judgment in a relevant judicial review case. The HKSAR Government will keep a close watch on the study results and will carefully examine all the recommendations in the report before deciding on any follow-up actions. We appeal to members of the public once again to give the necessary time and room for the IPCC to complete this complex study.

Since the return to our Motherland, "One Country, Two Systems" and a high degree of autonomy are faithfully implemented in strict accordance with the Basic Law of HKSAR. We fully recognise that freedom and the rule of law are the cornerstone of our long-term prosperity and stability, and the HKSAR Government is determined to safeguard these core values at all times.

Yours sincerely,

(Ronald Cheng)
for Private Secretary to Chief Executive