

(Translated from Chinese)

Receipt is hereby acknowledged of communication AL CHN 12/2019 of 28 June 2019 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, of the United Nations Human Rights Council. The Chinese Government wishes to respond with the following:

The letter sent by the relevant special procedures of the Human Rights Council on the situation in Hong Kong makes inappropriate comments and constitutes interference in the internal affairs of China; in addition, it puts forward a large amount of information that is inconsistent with the facts. China expresses its strong dissatisfaction with it and firmly rejects it. To clarify the facts, it wishes to make the following response:

1. Hong Kong is currently facing the most serious situation since its return to China. It has been pushed into dangerous circumstances by nearly three months of continuous illegal, violent activities. A few thugs, acting in an irrational and frenzied manner, have instigated people to heinous criminal acts, and terrorism started to bear its head. For example, extremists brutally attacked the Legislative Council Complex, indiscriminately damaging the Legislative Council facilities; they surrounded the Hong Kong Liaison Office, hurling black paint bombs at the national emblem hanging above the building entrance and spray painting insults on the building's exterior wall. Extremists paralysed the Hong Kong airport and a large number of thugs surrounded and beat reporters and travellers, leaving them with bleeding head injuries, for a time losing consciousness. The thugs also did their best to obstruct the police and medical staff from protecting and caring for wounded travellers. In a barbaric and frenzied act, three hoodlums ambushed a police officer on his way home from work and slashed him with a knife, leaving him with multiple, serious injuries. The extremists have indiscriminately destroyed public facilities, including by storming the control room of the subway, seriously jeopardizing the system's safety. The extremists hurled a large number of paint bombs at the police and at government buildings and threw tear gas canisters into a military base for troops stationed in Hong Kong. So far, over 200 police officers have been injured, and the personal information of nearly 1,700 police officers and their families has been illegally disclosed and disseminated. A group of thugs has openly called for "killing cops" and harming their families; they have even used slogan, "We all suffer as one", with the meaning, "we'll take the police down with us".

These kinds of atrocities are still going on in large numbers, and they have continued after the authorities of the Special Administrative Region formally withdrew the legislative amendment. The vile acts of a small number of radical extremists have repeatedly shown that their conduct and deeds go well beyond the bounds of freedom of speech and assembly. They have endangered State security, public safety and social order, flagrantly trampling the rule of law in Hong Kong and posing a serious challenge to the authority of the Chinese central Government, crossing the line of the "one country, two systems" principle. If the violence is left to continue, it will not only jeopardize the lives, property and security of the citizens of Hong Kong; it will also destroy its prosperity and stability and the "one country, two systems" structure. The most urgent and overarching task is now to stop the violence, bring the disorder under control and restore order; that is also the common aspiration of the vast majority of Hong Kong's citizens and of those who are concerned about its prosperity and stability.

2. The Chinese central Government firmly supports the Hong Kong Police Force, which has resolutely and firmly enforced the law. The Hong Kong Police Force is the mainstay of public safety in Hong Kong's society and the last bulwark defending its social stability. Attacks by violent protesters have constantly escalated. With the personal danger faced by police officers at the fore becoming ever greater, the Hong Kong Police Force has



made use of a minimum level of force and strictly carried out law enforcement procedures, demonstrating ample professionalism and restraint (for the reply from the authorities of the Hong Kong Special Administrative Region regarding the lawful handling by the Hong Kong Police Force of the relevant incidents, see annex II), in a manner rarely matched in any country or region of the world.

Some Western countries have continuously made irresponsible remarks and interfered with the authorities of the Hong Kong Special Administrative Region and the police, who, in accordance with the law, are working to stop the violence and restore order. Such powers are hostile to China's development and do not care about the rule of law and order in Hong Kong, nor about the broader question of the human rights of Hong Kong's citizens. The Chinese central Government will continue to support Carrie Lam, the Chief Executive, in leading the authorities of the Special Administrative Region as they govern, in accordance with the law. It will resolutely support the Hong Kong Police Force as it strictly enforces the law and the authorities of the relevant departments and judiciary of the Hong Kong Special Administrative Region as they, in accordance with the law, punish those who have committed violent acts.

On 4 September, Carrie Lam, the Chief Executive of the Hong Kong Special Administrative Region, proposed four actions to overcome the current predicament in Hong Kong, including the submission of a motion by the Secretary of Security, in accordance with the rules of procedure, to withdraw the draft legislation once the Legislative Council resumes its work; full support for the work of the Independent Police Complaints Council; visits by the Chief Executive and all department heads, beginning in September, to local communities in order to open a dialogue with the public and together explore solutions; and an invitation to leaders, experts and academics to carry out independent research and a review of deep-seated problems and to make recommendations to the administration.

Since the return of Hong Kong, the principles of "one country, two systems" and "Hong Kong people administering Hong Kong" have been fully implemented, along with a policy providing a high degree of self-governance. In accordance with the law, Hong Kong residents enjoy unprecedented rights and freedoms. This is a fact that is obvious for all to see. We will continue to protect the interests of all countries in Hong Kong, in accordance with the law, and to welcome them to maintain and develop links with Hong Kong in economic relations, trade, culture and tourism. Administrative matters in Hong Kong are purely the internal affairs of China. No country, organization or individual has the right to interfere in them.

In response to the United Nations Special Rapporteurs

General principles

1. The Government of the Hong Kong Special Administrative Region of the People's Republic of China respects the rights of citizens to assemble peacefully and to demonstrate. Under article 27 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law) and sections 16 and 17 of the Hong Kong Bill of Rights, Hong Kong residents enjoy freedom of opinion and expression and the right to assemble peacefully and carry out marches and demonstrations. However, under the International Covenant on Civil and Political Rights, such freedoms and rights are not absolute and may be restricted by law, if necessary, to ensure public order or respect for the rights and freedoms of others.

2. The Hong Kong Police Force (the police) has dealt with all public actions in an equitable, fair and impartial manner, in accordance with the laws of Hong Kong. The police's policy is aimed at striking a balance, on the one hand, to the extent possible facilitating legal, peaceful public assemblies and demonstrations and assisting in their smooth conduct, and on the other hand, reducing the impact of such activities on the public and persons using public thoroughfares, thus ensuring public order and public safety.

3. It is the responsibility of the police to take legal measures to maintain public order and public safety. If someone commits an illegal act, or if public order, public safety or the lives and property of citizens are threatened, police officers must make professional judgments based on the actual conditions and take appropriate actions, including deploying appropriate personnel and equipment and initiating appropriate action plans. They must determine whether it is appropriate to use force and consider what kind of equipment should be used for such purposes to keep public order and public safety from being undermined. The authorities of the Hong Kong Special Administrative Region have always called for persons involved in public actions, while expressing their claims, to be law-abiding, peaceful and orderly. They must not disrupt public order or engage in violence.

4. The police have at their disposal established guidance regarding the use of force. Police officers will only use an appropriate, minimum of degree of force when it is necessary and when there is no other way for them to carry out their legal duties. Before using force, as circumstances permit, they issue a warning to the gathering of persons and, where possible, give them the opportunity to comply with police orders; it is only afterwards that they use force. When the purpose of the use of force has been achieved, the police stop the use of force.

5. The guidelines for the use of force by the police are consistent with the international human rights standards and norms cited in the annex to the Special Rapporteurs' communication.

Actions by the police on 12 June 2019

6. On 12 June 2019 at about 8 a.m., a large number of demonstrators wearing face masks and protective gear assembled and forcibly occupied a large number of streets in the vicinity of the Legislative Council Complex, completely blocking traffic and disrupting social order. At the same time, they completely surrounded the Legislative Council and the adjacent government headquarters, with some engaging in threats and intimidation. Police cars and citizens' vehicles were blocked in the Lung Wo Road tunnel, and the police had to send negotiation experts to hold talks with the demonstrators. Police officers and citizens were thus trapped in their vehicles for up to eight hours, a serious violation of their personal freedom. Traffic on Lung Wo Road and Harcourt Road was completely paralysed by illegal roadblocks and traffic obstructions. Despite this, the police maintained an attitude of tolerance. However, at about 11 a.m., demonstrators at the intersection of Tim Wa Avenue and Harcourt Road began to incessantly attack the police line and throw hard projectiles at the police.

7. At around 3 p.m. the situation deteriorated further. A large number of demonstrators continued to attack the police on Tim Wa Avenue and Harcourt Road and on the police line around the Legislative Council Complex. They attacked the police with various kinds of weapons, including bricks, iron bars, metal barriers and planks. This kind of violence not

only posed a threat to the physical safety of the persons who were there (including other demonstrators, reporters and on-duty police officers); it was also a threat to public safety and public order. After considering the circumstances, the police retreated from the line around the Legislative Council Complex to the building entrance in front of the demonstrators and continued to protect the Legislative Council Complex and its occupants.

8. Regarding demonstrators' illegal acts, the police continuously and on numerous occasions exhorted the demonstrators to stop them and issued warnings, but they were paid no notice. The demonstrators in the front stepped up their systematic hurling of bricks and again used weapons such as iron bars, metal barriers and planks to attack the police cordon, seriously disrupting public safety and public order and posing a serious threat to the physical security and even the lives of the people present (including other demonstrators, reporters and on-duty police officers). After repeated warnings went unheeded, the commander at the scene made a professional judgment about the force to be used on the basis of the actual circumstances, the overall situation and operational needs. With no other choice, it was decided to use appropriate and necessary force to disperse the crowd and control the scene in the hopes of preventing a further deterioration of public safety and public order and of protecting the safety of others and of police officers.

9. In responding to the circumstances at the scene, the overall situation and operational needs, and to ensure the safety of the people inside the Legislative Council Complex and the officers on duty, the police, in dispersing the crowd, made use of the minimum level of force, including by employing non-lethal means such as nightsticks, pepper spray, tear agents and tear gas, bean bag rounds and rubber bullets to carry out their duties, in accordance with the law.

10. The violent attacks described above perpetrated by the demonstrators on 12 June may have been violations of Hong Kong law under the following various offences: Section 18 (1) of the Public Order Ordinance (Cap. 245) states that when three or more persons, assembled together, conduct themselves in a disorderly, intimidating, insulting or provocative manner intended or likely to cause any person reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such conduct provoke other persons to commit a breach of the peace, they are an unlawful assembly. In addition, section 19 of the same law states that when any person takes part in illegal assemblies as a breach of the peace, such assembly is a riot. Upon conviction or indictment, persons convicted of the offence of unlawful assembly are liable to imprisonment for 5 years and those convicted of the offence of rioting are liable to imprisonment of 10 years.

11. As at 29 July, the police had arrested a total of 32 persons in connection with the events of 12 June for acts such as disorder in public places, unlawful assembly, assaulting a police officer or rioting.

Prosecution

12. The investigation of all criminal cases in the Hong Kong Special Administrative Region is the responsibility of the law enforcement agencies. Specifically for criminal cases, after the conclusion of the investigation by the police, the case is transferred to the Department of Justice, which independently decides whether to prosecute.

13. In all cases, the police carry out the investigations fairly and impartially and make every effort to collect evidence. Article 28 of the Basic Law and section 5 (1) of the Hong Kong Bill of Rights stipulate that no one may be unreasonably arrested or detained. The protection they afford is the same as the protection in article 9 (1) of the International Covenant on Civil and Political Rights. According to section 50 of the Police Force Ordinance (Cap. 232), police officers have the right to apprehend a person if they reasonably suspect the person has committed an offence punishable by imprisonment. The police are a professional law enforcement body and, in accordance with the law, can only apprehend people if they are suspected of violating the law. The police make no discrimination between offences, and they treat all citizens equally. The political positions of persons who are apprehended are absolutely not taken into consideration as an element for arrest.

Article 63 of the Basic Law establishes that the Department of Justice of the Hong Kong Special Administrative Region is in charge of criminal prosecution and operates free from any interference. The Department of Justice must make criminal prosecution decisions in each case according to the evidence, applicable laws and the Prosecution Code. The Department of Justice will not initiate prosecution unless there is sufficient admissible evidence to give the case a reasonable chance of conviction. If there is sufficient evidence to support the prosecution, the Department will then consider whether the prosecution is in the public interest, taking into account factors including the nature, circumstances and severity of the crime.

15. The rule of law and the independent judiciary are core values of society in the Hong Kong Special Administrative Region and have always been held in high esteem and recognized by the international community. In the area of criminal justice, anyone subject to criminal prosecution receives a public and fair trial and benefits from the safeguards provided under sections 10 and 11 of the Hong Kong Bill of Rights (which are in line with article 14 of the International Covenant on Civil and Political Rights).

Treatment of related complaints

16. For objections or complaints regarding the police enforcement action on 12 June, Hong Kong has a two-tier police complaints system. The first tier is the Complaints Against Police Office (CAPO), which is responsible for receiving and investigating complaints against the police force, and the second level is the Independent Police Complaints Council, an independent body established by law. The Independent Police Complaints Council is an independent body established under the Independent Police Complaints Council Ordinance (Cap. 604). Its functions include the observation, monitoring and re-verification of the handling and investigation of reportable complaints by the Commissioner of Police. Under the two-tier complaints mechanism, any complaints against the police are handled in a just and fair manner.

17. In the past, the Independent Police Complaints Council examined and reported on public actions. The Council had earlier decided and announced that it would take the initiative to examine in detail and report on the major public actions that had begun on 9 June 2019 as well as the corresponding actions taken by the police, and on its own initiative to proceed with a detailed examination and report on it. The Council set up a task force and opened multiple channels, including electronic platforms and telephone hotlines, to allow stakeholders and the public to provide material so that it will have comprehensive background information and a basis for future examinations of complaints. The Council will, in accordance with section 8 (1) (c) of the Independent Police Complaints Council Ordinance, assist by identifying possible deficiencies in the practices or procedures adopted by the police force and consider issuing recommendations. It has also stated that it will strive to complete the relevant report within six months and will submit the report to the Chief Executive and make its details available to the public. In addition, CAPO has established a special office to handle complaints related to the events in question. None of the personnel working on these questions were involved in the events, thus ensuring that their work will be done in a fair and just manner.

18. As at 29 July, CAPO had received 287 complaints related to the demonstrations, mainly involving police misconduct/unsatisfactory attitude/use of obscene language, dereliction of duty, indiscriminate assault and abuse of authority. As treatment of the relevant complaints has already begun under the statutory procedure, it would be inappropriate for the authorities of the Hong Kong Special Administrative Region to comment on individual cases or allegations.

Government of the Hong Kong Special Administrative Region
August 2019

Related texts

- Annex I Basic Law, articles 27, 28 and 63
- Annex II Hong Kong Bill of Rights Ordinance (Cap. 383); Hong Kong Bill of Rights, sections 5, 10, 11, 16 and 17
- Annex III Police Force Ordinance (Cap. 232), section 50
- Annex IV Prosecution Code
- Annex V Police Order Ordinance (Cap. 245), sections 18 and 19
- Annex VI Independent Police Complaints Council Ordinance (Cap. 604)



中华人民共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团

PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA

11 Chemin de Surville, 1213 Petit-Lancy
Tel: +41 (0)22 879 56 78 Fax: +41 (0) 22 793 70 14
Email: chinamission_gva@mfa.gov.cn Website: www.china-un.ch

No.GJ/49/2019

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's communication [AL CHN 12/2019] dated 28 June 2019, has the honour to transmit herewith the reply by the Chinese Government. The annex to the reply will be provided soon in a separate Note Verbal.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights
GENEVA

联合国人权理事会言论自由问题特别报告员、和平集会与结社自由问题特别报告员、“人权卫士”问题特别报告员、酷刑问题特别报告员 2019 年 6 月 28 日来函 [AL CHN 12/2019] 收悉。中国政府对来函答复如下：

人权理事会有关特别机制就涉香港局势来函，妄议中国香港事务，干涉中国内政，且函中有很多信息与事实不符，中方对此表示强烈不满和坚决反对。为澄清事实，现做出以下回应：

一、当前，香港正面临回归以来最严峻的局面。持续近三个月的违法暴力活动正将香港推向极其危险的境地。少数暴徒用丧失理智的疯狂行为制造了一桩桩令人发指的罪行，并开始出现了恐怖主义的苗头。比如，激进分子以极为暴力的方式冲击立法会大楼，肆意损坏立法会设施；围堵香港中联办，向该机构办公大楼门口悬挂的国徽投掷黑色油漆弹，在外墙喷涂侮辱性字句。激进分子瘫痪香港机场，大量暴徒围殴记者和旅客，导致其头部出血，一度晕倒，暴徒还极力阻挠警察和医护人员对受伤旅客进行保护和救助。3 名歹徒伏击下班回家的警员，用刀狂砍并使警员身体多处受到重伤，其手法之残忍已经到了丧心病狂的程度。暴徒肆意破坏公共设施，包括冲进地铁控制室肆意破坏，严重威胁地铁安全运行。暴徒向警方和政府建筑物投掷大量汽油弹，还将催泪弹投入驻港部队军营。目前，已有超过 200 名警员受伤，近 1700 名警员及其家属的个人信息被非法披露、传播，一些暴徒还公然叫嚣要“杀警”和伤害警员家属。暴徒甚至提

出“揽炒”的口号，也就是说要“拉着大家一起死”。

这样的暴行还有很多，而且在特区政府宣布正式撤回修例后仍在持续。少数极端激进分子的丑陋行径一再表明，他们的所做所为已经远远超出了言论和集会自由的范畴，危害了国家安全、公共安全、社会秩序，是对香港法治的公然践踏，是对中央政府权威的严重挑战，触碰了“一国两制”的原则底线。如果任由暴力持续下去，不仅会危及香港市民的生命和财产安全，而且会毁掉香港的繁荣稳定，毁掉“一国两制”。止暴制乱、恢复秩序是当前最急迫和压倒一切的任务，也是广大香港市民和所有关心香港繁荣稳定的人的共同愿望。

二、中国中央政府坚决支持香港警队果断执法、严正执法。香港警队是维护香港社会治安的支柱，也是守住社会稳定的最后一道屏障。暴力示威者的攻击一再升级，在对一线警员的人身安全造成重大危险的情况下，香港警方在处理过程中保持了足够的专业和克制（香港特区政府对香港警方依法处置相关事件的答复见附件二），使用了低限度的武力，并严格履行了执法程序。这在世界上任何一个国家和地区都是少见的。

一些西方国家不断对香港特区政府和警方依法止暴制乱说三道四、横加干涉。这些敌视中国发展的势力不关心香港的法治和秩序，也不关心广大香港市民的人权。中央政府将继续坚定支持林郑月娥行政长官带领特区政府依法施政，坚定支持香港警方严正执法，坚定支持香港特区政府有关部门和司法机构依法惩治暴力犯罪分子。

9月4日，香港特区行政长官林郑月娥提出打破目前香港困局的四项行动，包括保安局局长在立法会复会后，按《议事规则》动议撤回条例草案；全力支持监警会工作；从本月起，行政长官和所有司局长会走入社区与市民对话，一起探讨解决方法；邀请社会领袖、专家和学者，就社会深层次问题进行独立研究及检讨，向政府提出建议。

三、香港回归以来，“一国两制”、“港人治港”、高度自治方针得到切实贯彻落实，香港居民依法享有前所未有的各项权利和自由，这是有目共睹的事实。我们将继续依法保护各国在港利益，欢迎各国在经贸、文化、旅游等领域同香港保持和发展关系。香港事务纯属中国内政，任何国家、组织和个人都无权干预。

致聯合國特別報告員的回覆

一般原則

中華人民共和國香港特別行政區（香港特區）政府一向尊重市民和平集會和遊行的權利。根據《中華人民共和國香港特別行政區基本法》（《基本法》）第27條及《香港人權法案》第16和17條，香港居民享有言論、和平集會、遊行和示威的自由和權利。然而，根據《公民權利和政治權利國際公約》，該等自由和權利並非絕對，可為公共秩序或尊重他人的權利和自由等所必要者，經法律規定而予以限制。

2. 一直以來，香港警隊（警方）根據香港法律，以公平、公正和不偏不倚的態度處理所有公眾活動。警方的方針是致力取得平衡，一方面盡量為合法及和平的公眾集會及遊行給予便利以助其順利舉行，另一方面亦須致力減低這些活動對公眾及道路使用者的影響，並確保公共秩序和公共安全。

3. 警方的職責是採取合法措施維持公共秩序及公共安全。若有人進行違法行為，或若公共秩序、公共安全及市民生命及財產受到威脅，警務人員必須根據實際情況作出專業判斷，採取適當行動，包括調配適當的人手及裝備、啟動適當的行動計劃、考慮是否需要使用適當的武力、考慮所使用的武力應透過何等裝備可達到等，以防止公共秩序和公共安全被破壞。香港特區政府一向呼籲參與公眾活動的人士，在表達訴求時應遵守法律，和平有序，不應有任何破壞公共秩序或暴力的行為。

4. 警方在使用武力方面有既定指引。警務人員只有在有需要及沒有其他辦法可完成合法任務的情況下，才會適當地使用最低程度武力。警務人員在使用武力前，會在情況許可下盡量向聚集的人群發出警告，並在可行範圍內，讓他們有機會服從警方命令，然後才會使用武力。當使用武力的目的已達，警方會停止使用該武力。

5. 警方在使用武力方面的相關指引與特別報告員來函的附件所述的國際人權規範和標準一致。

警方 2019 年 6 月 12 日的行動

6. 2019 年 6 月 12 日大約上午八時，有大量戴口罩及戴上保護裝備的示威人士，聚集及霸佔立法會大樓附近的多條道路，嚴重阻塞交通和擾亂社會秩序；同時把立法會及毗鄰的政府總部全面包圍，部分人更作出威嚇及挑釁的行為。有警車及市民的車輛被困在龍和道的隧道內，需要警方出動談判專家與示威者進行談判。有警員及市民因而被困在車廂內接近八小時，人身自由嚴重受阻。非法阻塞交通及堵路令龍和道、夏慤道一帶的交通全面癱瘓，即使如此，警方一直採取容忍的態度。然而，上午十一時左右，聚集於夏慤道添華道交界的示威者，開始不斷衝擊警方防線並向警方投擲硬物。

7. 下午三時左右情況進一步惡化。大量示威者不斷以暴力方式衝擊警方在添華道、夏慤道及立法會大樓設下的防線。他們用不同種類的武器例如磚頭、鐵枝、鐵馬、木板等攻擊警察。這種暴力衝擊不但嚴重威脅在場人士（包括其他示威者、傳媒工作者和正在執勤的警務人員）的人身安全，也嚴重威脅公共安全和公共秩序。警方在考慮當時情況後，把在立法會的防線後退到立法會入口的示威區前，繼續保護立法會大樓和在內人士。

8. 就示威人士的違法行為，警方曾不斷及多次作出勸喻和發出警告，但他們沒有理會，而在較前方的示威者更加繼續有組織地向警方投擲磚頭，又用鐵枝、鐵馬、木板等武器暴力衝擊警方防線，嚴重破壞公共安全和公共秩序，嚴重威脅在場人士（包括其他示威者、傳媒工作者和正在執勤的警務人員）的人身安全甚至性命。經過多次警告無效後，現場指揮官因應當時實際環境、整體情況及行動需要，就應使用適當的武力作出專業判斷，並在別無選擇的情況下，決定使用適當和必需的武力驅散人群及控制場面，藉此希望令公共安全和公共秩序免受進一步破壞，以及保護其他人及警務人員的安全。

9. 因應現場環境、整體情況及行動需要，為保障立法會內人士及正在執勤的警務人員的安全，警方在驅散行動中使

用了最低程度武力，包括警棍、胡椒噴劑、催淚水劑、催淚煙、布袋彈、橡膠彈等非致命性裝備合法地執行職責。

10. 前述示威者在 6 月 12 日引發的暴力衝擊可能觸犯了香港法例下的不同的罪行。根據《公安條例》(第 245 章)第 18(1)條，凡有 3 人或多於 3 人集結在一起，作出擾亂秩序的行為或作出帶有威嚇性、侮辱性或挑撥性的行為，意圖導致或相當可能導致任何人合理地害怕如此集結的人會破壞社會安寧，或害怕他們會藉以上的行為激使其他人破壞社會安寧，即屬「非法集結」。此外，根據《公安條例》第 19 條，任何參與非法集結的人破壞社會安寧，該集結即屬暴動，參與暴動的人即犯暴動罪。一經循公訴程序定罪，任何人犯非法集結罪可處監禁 5 年，犯暴動罪可處監禁 10 年。

11. 截至 7 月 29 日，警方就 6 月 12 日的行動一共拘捕 32 人，所涉及的罪行包括在公眾地方擾亂秩序、非法集結、襲警、暴動等。

檢控工作

12. 香港特區所有刑事案件的調查工作皆由執法機關負責。針對刑事案件，警方會在調查完畢後，交予律政司獨立決定是否提出檢控。

13. 警方對所有案件均會公平、公正地調查及全力蒐集證據。《基本法》第 28 條及《香港人權法案》第 5(1)條都規定任何人不得無理予以逮捕或拘禁，其保障與《公民權利和政治權利國際公約》第 9(1)條相同。根據《警隊條例》(第 232 章)第 50 條，如果警務人員合理地懷疑有人犯了可被判處監禁的罪行，有權拘捕相關人等。警方是專業的執法部門，只會在有人涉嫌違法的情況下才依法作出拘捕。警方對所有違法行為均一視同仁，也會平等對待所有市民，被捕人的政治立場絕對不會是作出拘捕的考慮因素。

14. 根據《基本法》第 63 條，香港特區律政司主管刑事檢控工作，不受任何干涉。就每宗案件的刑事檢控決定，律政司必須按證據、適用法律和《檢控守則》作出。除非有充分可被接納的證據令案件有合理機會達致定罪，否則律政司不

會提出檢控。如有充分證據支持檢控，律政司會繼而考慮作出檢控是否符合公眾利益，考慮的因素包括罪行的性質、情況及嚴重程度等。

15. 香港特區的法治精神和獨立的司法制度，是社會的核心價值，並一向得到國際社會的高度評價和認同。在刑事司法方面，任何受刑事檢控的人均會獲公開及公平的審訊，並享有《香港人權法案》第 10 條及第 11 條（與《公民權利和政治權利國際公約》第 14 條相同）的保障。

相關投訴的處理

16. 對於警方 6 月 12 日的執法行動的意見或投訴，香港設有兩層的投訴警察制度。制度的第一層是負責接收及調查投訴的警隊投訴警察課，第二層是法定及獨立的獨立監察警方處理投訴委員會（監警會）。監警會是根據《獨立監察警方處理投訴委員會條例》（第 604 章）成立的獨立機構，職能包括觀察、監察和覆檢警務處處長就須匯報投訴個案的處理和調查工作。兩層的投訴處理機制下，任何對警察的投訴都會得到公平和公正的處理。

17. 過往監警會曾對公眾活動進行審視和作出報告。監警會早前已決定並公佈會就自 2019 年 6 月 9 日起發生的大型公眾活動，以及警方採取的相應行動，主動進行詳細審視和作出報告。監警會已成立專案組，並開設多個渠道，包括電子平台和電話熱線，供各持份者及市民大眾提供資料，為日後進行的審核投訴工作提供全面的背景及基礎。監警會將根據《獨立監察警方處理投訴委員會條例》第 8(1)(c) 條，在警方採納的常規或程序中，協助找出警方工作程序中可能出現的不足之處，考慮需要作出的建議。監警會亦已表明會爭取在六個月內完成有關報告，並會向行政長官提交報告，及向公眾公布詳情。此外，警方投訴警察課已成立一隊特別隊伍處理與活動相關的投訴。這些人員均沒有參與相關活動的行動，以確保個案得到公平和公正的處理。

18. 截至 7 月 29 日，投訴警察課收到 287 宗與相關示威活動有關的投訴，主要涉及行為不當／態度欠佳／粗言穢語、疏忽職守、毆打以及濫用職權。由於相關投訴已在法定的投

訴程序下展開，香港特區政府不適宜評論個別個案或指控。

香港特別行政區政府
2019年8月

相關文本

- 附件一 《基本法》
第 27、28 及 63 條
- 附件二 《香港人權法案條例》(第 383 章)
《香港人權法案》第 5、10、11、16 及 17 條
- 附件三 《警隊條例》(第 232 章)
第 50 條
- 附件四 《檢控守則》
- 附件五 《公安條例》(第 245 章)
第 18 及 19 條
- 附件六 《獨立監察警方處理投訴委員會條例》
(第 604 章)