

January 8, 2020

Carrie Lam
Chief Executive
Office of the Chief Executive
Tamar
Hong Kong

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Re: Independent Commission of Inquiry into Alleged Police Abuses

Dear Chief Executive Lam,

We are writing to urge the Hong Kong government to promptly establish an independent, impartial, and effective investigation into alleged use of excessive force and other violations of human rights by the Hong Kong Police Force since June 2019. Human Rights Watch previously [wrote](#) to you on June 28, detailing four instances of excessive police force and our concerns about the weaknesses of the existing police complaints mechanism, the Complaints Against Police Office (CAPO) and the Independent Police Complaints Council (IPCC). We did not receive a response.

Since that time, protests have continued, and Hong Kong police have escalated their use of apparently excessive force against peaceful protesters, journalists, and bystanders. For example, on November 19, police officers [drove](#) vans at high speed towards a large group of protesters, leading to a stampede. On November 11, a traffic police officer repeatedly [ran his motorcycle](#) into a crowd of protesters. On November 2, police [used teargas and pepper spray](#) to disperse people peacefully attending an unapproved assembly. Police officers [blinded an Indonesian journalist](#) in one eye in September with a rubber bullet, and [severely injured](#) the eye of a protester in August with a bean bag round.

Human Rights Watch, along with numerous other [nongovernmental organizations](#), [United Nations human rights experts](#), Hong Kong [legislators](#), and members of the public have long expressed concerns about the ability of the CAPO and IPCC to credibly investigate allegations of police misconduct. In December, international experts who had worked with the IPCC since September [withdrew](#) their support from internal investigations because the IPCC had no authority to subpoena witnesses or verify police accounts. After the *Washington Post* [published](#) the Hong Kong police's internal guidelines for the use of force, nine international experts who reviewed *Washington Post* video of police actions during the protests determined that, "Hong Kong police went against their rules in about 70 percent of the incidents reviewed." On December 9, a police spokesman, when asked about the number of police officers who have been suspended pending investigation, was [unable to provide the information](#). The IPCC is expected to deliver a report on police conduct in the protests in late January.

We urge that you seize this opportunity to create an independent commission of inquiry to investigate alleged excessive use of force and other abuses by the police since the protests began on June 9. The government should empower the commission to subpoena, as necessary, witnesses,

documents, and government agencies, and recommend cases for disciplinary action and criminal prosecution.

While you indicated in November that your government is considering establishing an “[independent review commission](#)” to examine “the social, economic and political...causes of Hong Kong’s continued social crises,” it does not appear that such a commission would investigate alleged police abuses or make recommendations for accountability.

The elements of a commission of inquiry should include:

- *Clear scope of inquiry.* The substantive focus should involve orders police were given by the Hong Kong government and the Chinese government’s offices in charge of Hong Kong affairs, and by police leadership regarding use of force, as well as the chain of command promulgating these orders; whether those were appropriate to the circumstances of a given incident; and whether complaints against the police were adequately and impartially investigated.
- *Comprehensive investigation.* The inquiry should address all credible allegations of police excessive use of force, arbitrary arrest, torture and other ill-treatment of persons in custody, unreasonable stop and search, and police failure to display ID numbers on uniforms. It should also address the worst cases of alleged police abuse, including but not limited to alleged [sexual abuse](#), the [death](#) of 22-year-old Chow Tze-lok, and alleged mistreatment of arrested protesters at San Uk-Ling, a remote and disused detention facility.
- *Commission composed of well-regarded individuals from involved communities.* The [commission should include](#) former judges, lawyers, former police officers, human rights advocates, and protest participants.
- *Sufficient human and financial resources for a productive and effective investigative team.* This would include:
 - Full-time, trained investigators to conduct rigorous, thorough, and impartial investigations, including field investigations; and
 - Full-time, trained staff to process complaints and follow up with complainants to notify them in a timely manner of the status of their complaints.
- *Adequate investigatory authority.* The commission should be empowered to subpoena witnesses and documents, and interview police officials and other government officials. It should have access to all relevant police internal documents and communication, including police investigation files, relevant internal policy memoranda that apply to police conduct, training manuals, complaints against the police, internal investigation records, and any other material relevant to policing since June. The commission should also have the resources to process materials submitted by the public, including video, photo, audio recordings, and medical reports.
- *Authority to offer anonymity, confidentiality, and protection to witnesses.* The commission should ensure that complaints of alleged police misconduct will not be used against complainants in criminal or civil proceedings. The commission should also have the resources to securely store its files.

- *Adequate resources for record keeping.* The commission should keep records on the number and type of complaints received, the investigation undertaken, the status of the complaints, and their resolution. That should include recommendations of police for disciplinary action in accordance with the Police (Discipline) Regulations and/or to the Prosecutions Division of the Department of Justice.
- *Status Updates.* The police and the Secretary of Justice's office should provide the commission regular updates on disciplinary proceedings and prosecutions involving cases referred by the commission.
- *Regular public reporting.* The commission should promptly and regularly report the findings of its investigations, including recommendations for disciplinary action and prosecutions, and proposals for police reform.

We wish to reiterate the UN Human Rights Committee's 2013 recommendation that the Hong Kong government review the existing police complaint mechanisms and "take necessary measures to establish a fully independent mechanism" to conduct investigations about police abuse. We believe that such an investigation, as well as longer term efforts to ensure a fully independent body to check police abuse, will significantly improve respect for human rights not only by the Hong Kong Police Force, but also by the Hong Kong government as a whole.

We welcome the opportunity to meet and discuss this with you in greater detail.

Sincerely,

Sophie Richardson
China Director
Human Rights Watch

Icarus WONG Ho-Yin
Founder
Civil Rights Observer

cc:

John Lee Ka-chiu, Secretary for Security
Stephen Lo Wai-chung, Commissioner of Police
President of IPCC, 梁定邦