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The Honourable CHAN Hak-kan
Chairman, Panel on Security
Legislative Council
1 Legislative Council Road
Central, Hong Kong

24 September 2019

Dear Mr. Chan,

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Public Inquiry (2019 Disturbances) Bill

I intend to introduce a member's bill, namely the "Public Inquiry (2019 Disturbances) Bill" into the Legislative Council. The bill will establish a commission of inquiry concerning: (i) the public disturbances in Hong Kong of June, July, August and September 2019; (ii) events leading up to, concerning and following the assault on the Legislative Council Complex on 1 July 2019; and (iii) for other purposes connected with the above.

I am writing to consult the Panel on Security on this legislative proposal and the draft bill. I would be grateful if the Panel could arrange a timeslot to discuss this proposal.

I enclosed the draft bill in both Chinese and English for your perusal.

Yours sincerely,

Kenneth Leung

Encls.

A BILL

To

Establish a commission of inquiry concerning the public disturbances in Hong Kong of June, July, August and September 2019, events leading up to, concerning and following the assault on the Legislative Council Complex on 1 July 2019, and for purposes connected therewith.

1. Short title

This Ordinance may be cited as the Public Inquiry (2019 Disturbances) Ordinance.

2. Appointment of Commission

- (1) The Chief Executive in Council shall upon the commencement of this Ordinance appoint five Commissioners (hereinafter referred to as a *Commission*) for the purposes of inquiring into and ascertaining the facts and matters at subsections (1)(a) and (b) (hereinafter referred to as **Inquiry**) and making recommendations in respect of the matters at subsections (1)(c) to (f) below -
 - (a) inquiring into and ascertaining the facts leading to public opposition to the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (the **Bill**), including but not limited to the Executive Council's handling of the Bill from presentation to the Legislative Council to the announcement of the Chief Executive's decision of 15 June, 2019 to halt work in relation to the Bill;
 - (b) inquiring into and ascertaining the facts concerning clashes among protesters, the Hong Kong Police, journalists and the public generally during and around public order events and other forms of demonstration or gathering in the months of June, July, August and September 2019, including but not limited to establishing whether any person (whether in Hong Kong or elsewhere) sought to provoke clashes, applied excessive force in relation to clashes or was otherwise responsible for the promotion or encouragement of clashes;
 - (c) recommending consultative measures and other steps to be taken by the Executive Council when contemplating and presenting legislation reasonably likely to be regarded as controversial;
 - (d) recommending appropriate measures to be adopted for the purposes of ensuring public order and in the policing of large numbers of persons in peaceful situations and otherwise;
 - (e) recommending measures conducive towards securing consensus and reconciliation in society generally;
 - (f) making such other recommendations as the Commission in its sole discretion shall think fit.

- (2) The Chief Executive in Council shall —
 - (a) appoint one of the Commissioners to be chairman of the Commission;
 - (b) require all Commissioners to be present at meetings of the Commission;
 - (c) appoint a secretary to the Commission, assistant secretaries and other staff;
 - (d) appoint one or more senior counsel and junior counsel as legal adviser to the Commission;
 - (e) appoint additional Commissioners or persons in substitution for Commissioners who may die, resign, refuse to act, or become incapable of acting.
- (3) Where a new Commissioner has been appointed under subsection (2), it shall not be necessary for any evidence which may have been taken before the Commission prior to such appointment to be retaken.
- (4) The appointment of the Commission shall be published in the Gazette.

3. Directions to Commission

The Chief Executive in Council shall —

- (a) direct the Commission to commence the Inquiry no later than one month after the commencement of this Ordinance, present an interim report to the Chief Executive in Council in relation to its work no later than six months after the commencement of this Ordinance and indicate no later than seven months after the commencement of this Ordinance that it shall present a final report to the Chief Executive in Council no later than twelve months after the commencement of this Ordinance;
- (b) upon the Commission so requesting, extend the date by which any part of the Commission's work is to be completed;
- (c) without prejudice to the powers of the Commission to receive and consider such other evidence as it may think fit, direct what material should be received and considered by the Commission;
- (d) direct that the Commission shall not inquire into or otherwise be concerned with any matters under investigation by the Independent Commission Against Corruption;
- (e) direct that the evidence of certain persons or classes of persons be taken, either orally or in writing, and that certain documents or classes of documents be inspected by the Commission;

- (f) direct that without prejudice to the powers conferred upon the Commission by section 4(1)(i), that the holding of the Inquiry or parts thereof be in camera;
- (g) direct that the Commissioners take the oath or affirmation in the form set out in the Schedule prior to taking up their appointment; and
- (h) direct that the Commission shall have and exercise the power conferred by section 10 to punish all or any of the contempts specified in section 9.

4. Powers of Commission

(1) The Commission may, for the purpose of complying with directions issued under section 3 and for conducting its work generally—

- (a) receive and consider any material whether by way of oral evidence, written statements, documents or otherwise, notwithstanding that such material would not be admissible as evidence in civil or criminal proceedings;
- (b) determine the manner in which such material shall be received and what persons or class of persons shall be permitted or required to give evidence:

Provided that the contents of any document submitted to the Commission, not being of a scurrilous or offensive nature, shall be considered by the Commission, notwithstanding that the person submitting such document is, in addition, permitted or required to give evidence; require any person who wishes to give evidence before the Commission to submit a summary in writing of the evidence proposed to be given;

- (c) summon any person in the form set out in the Schedule to attend to give evidence or to produce any article or document;
- (d) issue warrants of arrest to compel the attendance of any person not complying with a summons issued under paragraph (d);
- (e) administer oaths and affirmations;
- (f) examine on oath, affirmation or otherwise any person attending before the Commission and require such person to answer all questions put by or with the consent of the Commission and produce any article or document in his possession or under his control;
- (g) award any person attending before the Commission such sum as in the opinion of the Commission represents the loss to that person occasioned by the time spent in such attendance;
- (h) hold in camera, or exclude any person (including any person implicated or concerned therein and his legal representatives) from, the whole or any part of the Inquiry:

Provided that any legal representative entitled to appear by virtue of the provisions of section 6—

- (i) may only be excluded from such part of the Inquiry as is held in camera;
 - (ii) shall not in any event be so excluded while his client is giving evidence;
- (i) prohibit the publication to or disclosure by any person attending before the Commission of all or part of the material received by the Commission;
 - (j) enter and inspect any premises;
 - (k) issue warrants for the searching of premises and the seizure therein of any article or document or any class of articles or documents specified in the warrant (as being likely to be of evidential value for the purposes of the Inquiry);
 - (l) determine the procedure to be followed at the Inquiry and the form of any summons, warrant, or other document made or issued by the Commission;
 - (m) where the Commission requires to receive evidence concerning the conduct or management of any agency of Government, public body or any other body of persons, corporate or unincorporate, then the Commission may appoint, on such terms as to remuneration as the Financial Secretary may approve, one or more inspectors—
 - (i) to inspect all the books and documents of or relating to the affairs of such body; and
 - (ii) if the Commission is satisfied that such body has, or has had, an association with any other public body or body of persons, corporate or unincorporate, which is or may be relevant to the subject of the Inquiry, to inspect all the books and documents of or relating to the affairs of such other body, and to report thereon to the Commission in such manner and within such period or further period as the Commission may direct; and
 - (n) exercise such other powers as may be necessary for the purposes of the Inquiry.
- (2) Without prejudice to the powers conferred on a Commission by subsection (1)(n), any one or more Commissioners may inspect the books and documents referred to in subsection (1)(n), and in so doing he or they shall, for the purposes of this Ordinance, be deemed to have been duly appointed an inspector or inspectors, as the case may be, under subsection (1)(n).

5. Conduct of Inquiry

Without derogating from the generality of the power conferred under section 4(1)(m) the Commission may—

- (a) order the manner in which any person shall give his oral evidence and may specify that this shall be by way of cross-examination without any examination-in-chief, and
- (b) determine who may address the Commission, on what matters and in what order.

6. Right to Representation

- (1) Any person whose conduct is the subject of the Inquiry, or who is implicated or concerned in the subject matter of the Inquiry, shall, subject to the provisions of section 4, be entitled to be represented by a barrister or solicitor at the Inquiry.
- (2) For the purpose of subsection (1), the Commission alone shall determine whether the conduct of any person is the subject of the Inquiry or whether a person is in any way implicated or concerned in the subject matter of the Inquiry.
- (3) The Chief Executive, any Government department and any public officer shall, notwithstanding the provisions of subsections (1) and (2) but subject to the provisions of section 4, be entitled to be represented at the Inquiry by a legal officer, or by a barrister or solicitor who may—
 - (a) address the Commission on any matter on which he is so instructed by the Chief Secretary for Administration or by the Secretary for Justice, and
 - (b) produce evidence in such form as the Commission may permit on any matter.
- (4) The Commission may appoint a legal officer nominated by the Secretary for Justice, a barrister or a solicitor to act as counsel for the Commission.

7. Use of Evidence Received by, Findings of, the Commission

Neither evidence given by any person before the Commission, nor any finding of or conclusion drawn by the Commission, shall be admissible against him or any other person in any civil or criminal proceedings by or against him or any other person, except where he is charged with any offence under Part V (Perjury) of the Crimes Ordinance (Cap. 200) or is proceeded against under section 8 or 9.

8. Production of Documents, and Evidence, to Commission's Inspectors

- (1) It shall be the duty of all officers and agents of a public body or other body of persons to produce to an inspector appointed under section 4(1)(n) to inspect its books and documents, all books and documents in their custody or power of or relating to such body's affairs or the affairs of any other body of persons the books and documents of which the inspector is appointed under section 4(1)(n) to inspect, and otherwise to give to the inspector all assistance that they are reasonably able to give.
- (2) In this section, any reference to officers or to agents of a public body or other body of persons shall include past, as well as present, officers or agents, as the case may

be, and for the purposes of this section “agents” (代理人) shall include the bankers and solicitors of such body and any person employed by such body as auditor, whether such person is or is not an officer of such body.

9. Contempts to be Offences

(1) Any person who —

- (a) fails without reasonable excuse to attend at the time and place specified in a summons issued under section 4;
- (b) refuses to take an oath or make an affirmation on being required to do so under section 4;
- (c) refuses to answer any question put by or with the consent of the Commission or to produce any article or document in his possession or under his control on being required to do so under section 4;
- (d) being an officer or agent of a public body or other body of persons within the meaning of section 8 —
 - (i) with intent to avoid or prevent production, destroys, suppresses, defaces or makes away with any book or document that it would be his duty to produce for the purposes of the Inquiry to an inspector in the event of an inspector being appointed under section 4(1)(n), or
 - (ii) refuses, without lawful authority or reasonable excuse, to produce any such book or document to an inspector so appointed, or
 - (iii) refuses, without lawful authority or reasonable excuse, to answer any question put to him by an inspector so appointed with respect to the affairs of such body or any other body the books and documents of which the inspector has been appointed to inspect;
- (e) wilfully interrupts the proceedings of the Commission or otherwise misbehaves during any hearing of the Commission;
- (f) having been summoned to attend, leaves the place in which the Commission is being held without permission of the Commission.

shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 and to imprisonment for 3 months.

(2) Any person who—

- (a) wilfully hinders or deters any person from attending, giving evidence or producing any article or document;
- (b) threatens, insults or causes any loss to be suffered by any person who has attended before the Commission, on account of such attendance;

- (c) threatens, insults or causes a loss to be suffered by any Commissioner at any time on account of the performance of his duties as a Commissioner;
- (d) wilfully interrupts the proceedings of the Commission or otherwise misbehaves during any hearing of the Commission;
- (e) having been summoned to attend, leaves the place in which a Commission is being held without the permission of the Commission,
- (f) publishes or otherwise discloses any material which the Commission had prohibited him from publishing or disclosing;
- (g) publishes or otherwise discloses any material received by the Commission in camera,

shall be guilty of an offence and liable on conviction upon indictment to a fine of \$10,000 and to imprisonment for 1 year.

- (3) It shall be a good defence in the case of a prosecution under subsection (2)(e) for the person charged to prove to the satisfaction of the court that he did not know nor had any reason for knowing that the material published or disclosed had been received by the Commission in camera.

10. Contempts Dealt With by Commission

- (1) The Commission may deal summarily as a contempt with any offence specified in section 9 which is committed in its presence, and may impose the sentence prescribed by that section.
- (2) In the case of contempts not committed in the presence of the Commission, it may summon the offender to appear before it at the time and place specified in the summons, there to show cause why the offender should not be sentenced for the contempt, and may impose the sentence prescribed by section 9.
- (3) The Commission may issue warrants of arrest to compel the attendance of any person not complying with a summons issued under subsection (2).
- (4) Any sentence of imprisonment imposed under this section may be remitted where the Commission is of the opinion that the contempt has been purged.
- (5) Any person aggrieved by any decision, order or sentence of the Commission in exercise of the powers conferred by subsection (1) or (2) may appeal to a judge of the Court of First Instance, in the same manner as if it were an order of a magistrate in respect of which an appeal lies under section 113 of the Magistrates Ordinance (Cap. 227), in accordance with rules made by the Chief Justice.

11. Commission to Have Powers of Judge

For the purposes of enforcing the payment of any fine imposed or giving effect to any warrant of arrest or sentence of imprisonment or for other like purposes, the Commission shall have the powers of a judge. In the exercise of such powers and for the purpose of

issuing warrants, summoning persons and the exercise of other like powers the Chairman may do all necessary acts in the name of the Commission.

12. Inquiry to be a Judicial Proceeding

- (1) The Inquiry conducted by the Commission pursuant to this Ordinance shall be deemed to be a judicial proceeding.
- (2) Any conduct which would constitute contempt of the Court of First Instance or of a judge, if it were committed towards the Court of First Instance or a judge as the case may be, shall be a contempt of a Commission and may be dealt with and punished by a judge of the Court of First Instance as a contempt of the Court of First Instance.

13. Protection of Commission and witnesses

- (1) No Commissioner shall be liable to any suit or other proceeding for any act or thing done by him bona fide as such Commissioner:

Provided that nothing in this subsection shall be deemed to limit the power of the Court of First Instance to make an order of mandamus, certiorari or prohibition in relation to proceedings before a Commission.

- (2) All evidence given before a Commission shall be absolutely privileged, and no witness giving such evidence shall be liable to any suit or other civil proceeding in respect thereof.
- (3) A legal officer, barrister or solicitor appearing before a Commission, whether as counsel for the Commission or otherwise under or by virtue of section 6, shall be entitled to the same immunities as if he were appearing for a party in proceedings before the Court of First Instance.

14. Police and Bailiffs to Assist Commission

Police officers and bailiffs of the court shall assist the Commission conducting the Inquiry for such purposes as the Commission may require and may do all such things as are necessary for the purpose of rendering such assistance.

15. Cost of inquiry

The cost of the Inquiry and all matters incidental thereto conducted under this Ordinance, including any sums awarded under section 4(1)(h), shall be a charge on the general revenue of Hong Kong.

16. Protection of Person Publishing True Account

Subject to section 9(2)(d) no person shall be liable to any civil or criminal proceedings by reason of his publishing a true account of any evidence taken in public before the Commission or of any report of the Commission.

PUBLIC INQUIRY (2019 DISTURBANCES) ORDINANCE

SCHEDULE

FORM 1

Form of oath or affirmation to be taken by a Commissioner [section 3]

I, , swear by Almighty God (solemnly promise and declare) that
I will diligently inquire into the matters prescribed in the instrument appointing this
Commission and will truly and faithfully execute the powers and trusts vested in
me by the Public Inquiry (2019 Disturbances) Ordinance (Chapter xx) according to
the best of my knowledge and judgment.

FORM 2

Summons to a witness [section 4]

To A.B. [name of person summoned and his address].

You are hereby summoned to appear before the Commission constituted by the Public
Inquiry (2019 Disturbances) Ordinance (Chapter xx)

..... at [place] upon the day of at

..... o'clock in the noon and to give evidence respecting such inquiry, and
you are required to bring with you [specify documents, etc.]

.....

Given under the hand of, Commissioner, this day
of 20

Signature

本條例草案

旨在

設立就有關 2019 年 6、7、8 及 9 月在香港發生的公眾騷亂，導致或有關於 2019 年 7 月 1 日襲擊立法會大樓事件及其後的事宜，以及相關目的的調查委員會。

1. 簡稱

本條例可引稱為《調查委員會(2019 年騷亂)條例》。

2. 調查委員會的委任

(1) 行政長官會同行政會議將於本條例生效之日期，委任五名委員(以下稱為**委員會**)，為調查及查明以下第(1)(a)及(b)款所述的事宜(以下稱為**調查**)以及就以下第(1)(c)至(f)款所述的事宜提出建議 -

- (a) 調查及查明導致公眾反對《2019 年逃犯及刑事事宜相互法律協助法例 (修訂) 條例草案》(以下稱為**條列草案**)的事實，包括但不限於行政會議，從向立法會提出該條列草案到行政長官於 2019 年 6 月 15 日宣佈停止有關該條列草案的工作，就該條列草案的處理；
- (b) 調查及查明有關於 2019 年 6、7、8 及 9 月期間及前後在公眾秩序事件及其他形式的示威或聚會中示威者、香港警察、記者及公眾人士之間發生的衝突的事實，包括但不限於確認任何人(無論是在香港或其他地方)是否試圖挑起衝突、針對衝突采用過度的暴力或以其他方式對促進或鼓勵衝突負責；
- (c) 建議行政會議在考慮或提出相當可能被視為有爭論的法例時應當採用的協商措施及其他步驟；
- (d) 建議為維持公眾秩序及在和平或其他況情下對大量人員進行監管應當採取的適當措施；
- (e) 建議有利於在社會獲取共識及實現和解的措施；
- (f) 提出委員會按其全權酌情決定權認為合適的其他建議。

(2) 行政長官會同行政會議須 —

- (a) 委任其中一名委員為委員會的主席；
- (b) 要求所有委員出席委員會的會議；
- (c) 委任委員會秘書、助理秘書及其他職員；

- (d) 委任一名或以上的資深大律師和大律師為委員會的法律顧問；
 - (e) 委任額外的委員或人士，以替代去世、辭職、拒絕行事或無能力行事的委員。
- (3) 凡有新委員根據第 (2) 款獲委任，於該項委任前已在委員會席前錄取的證據，無須再次錄取。
- (4) 委員會的委任，須在憲報公布。

3. 對委員會的指示

行政長官會同行政會議須 —

- (a) 指令委員會於本條例生效日期後一個月內進行調查研訊，在不遲於本條例生效日期的六個月後向行政長官會同行政會議提交有關委員會的工作的中期報告，並在不遲於本條例額生效日期後的七個月內表示其將在不遲於本條例生效日期的 12 個月內向行政長官會同行政會議提交委員會的最終報告；
- (b) 根據委員會的要求，延展委員會完成其任何部分工作的期限；
- (c) 在不損害委員會收取及考慮其認為適當的其他證據的權力的原則下，指令委員會應收取及考慮何等資料；
- (d) 指令委員會不針對廉政公署所調查的任何事宜進行調查研訊或以其他方式關注；
- (e) 指令某些人士或某些類別人士的證據以口頭或書面方式錄取，以及某些文件或某些類別文件由委員會查閱；
- (f) 在不損害第 4(1)(i) 條授予委員會的權力的原則下，指令調查研訊或部分調查研訊以非公開形式進行；
- (g) 指令委員在接受委任之前以附表所列表格的格式作出宗教式或非宗教式宣誓。
- (h) 指令委員會行使第 10 條授予的權力，就第 9 條指明的所有或任何一項藐視罪施加懲罰。

4. 委員會的權力

- (1) 為遵從根據第 3 條發出的指示及為在一般情況下進行調查研訊，委員會可 —
- (a) 收取及考慮以口頭證據、書面陳述、文件或其他方式提供的任何資料，即使該等資料不會在民事或刑事法律程序中被接納為證據；
 - (b) 決定收取該等資料的方式，以及何人或何等類別人士須獲允許或必須作證；

但任何呈交委員會的文件的內容，如性質並非粗鄙 或令人反感者，委員會須予以考慮，即使呈交該文件的人除呈交文件外亦獲允許或必須作證；

- (c) 要求任何意欲在委員會席前作證的人呈交有關擬提供的證據的書面摘要；
- (d) 以附表所列表格的格式傳召任何人出席作證或出示任何物品或文件；
- (e) 發出逮捕令，以強迫任何不遵從根據 (d) 段發出的傳票的人出席；
- (f) 監誓；
- (g) 對到委員會席前的任何人，進行經宗教式或非宗教式宣誓後或不經宣誓的訊問並要求該人回答由委員會提出或經委員會同意而提出的所有問題，和要求該人出示其管有或控制的任何物品或文件；
- (h) 判給任何到委員會席前的人一筆款項，該款項為委員會認為代表該人因到委員會席前所花時間而蒙受的損失；
- (i) 以非公開形式進行全部或部分調查研訊，或拒絕任何人（包括任何受牽連或牽涉在內的人及其法律代表）出席全部或部分調查研訊：

但憑藉第 6 條的條文有權出席的任何法律代表 —

- (i) 只可被拒出席調查研訊以非公開形式進行的部分；
- (ii) 在任何情況下，不得在其當事人作證時被拒出席；
- (j) 禁止向任何到委員會席前的人發表或禁止任何該等人士披露委員會所收取的全部或部分資料；
- (k) 進入及視察任何處所；
- (l) 發出手令以搜查處所，並在其內檢取手令所指明的任何物品或文件或任何類別的物品或文件（就調查研訊而言，該等物品或文件相當可能具有可作為證據的價值）；
- (m) 決定進行調查研訊時須依循的程序，及委員會作出或發出的任何傳票、手令或其他文件的格式；
- (n) 在委員會需要收取的證據關於屬法團或非屬法團的政府部門、公共機構或任何其他團體或個人的行為或管理時，委員會可按財政司司長批准的薪酬條款，委任一名或多於一名的審查員何其他團體的經營或管理時，委任一名或多於一名的審查員——
 - (i) 查閱該機構或團體的所有簿冊及文件或與該機構或團體事務有關的所有簿冊及文件；及

(ii) 如委員會信納該機構或團體與或曾與任何其他 屬法團或非屬法團的公共機構或團體有聯繫，而該聯繫與委員會調查標的有關連或可能有關連，則查閱該另一機構或團體的所有簿冊及文件在獲委調查屬法團或非屬法團的任何公共機構或任 件或與該另一機構或團體事務有關的所有簿冊及文件，並以委員會指示的方式及在委員會指示的期間或延展期間內，就此向委員會作出報告;及

(o) 行使為調查研訊目的所需的其他權力。

(2) 在不損害第 (1)(n) 款授予委員會的權力的原則下，凡委員會只有一名委員，在符合第 (3) 款的規定下，該委員本人可查閱第 (1)(n) 款所提述的簿冊及文件;凡委員會有 多於一名的委員，在符合第 (3) 款的規定下，其中獲委員會揀選的一名或多於一名的委員可查閱該等簿冊及文件;就本條例而言，如此進行查閱的該委員或該等委員，須 當作為已根據第(1)(n)款妥為委任的審查員。

5. 調查研訊的進行

在不減損第 4(1)(m) 條授予的權力的概括性的原則下，委員會可 —

(a) 就任何人以口頭作證時須採用的方式作出命令，並 可指明該人無須經接受訊問即可用接受盤問方式作 證，及

(b) 決定何人可向委員會陳詞、就何事陳詞及各人陳詞 的次序。

6. 由他人代表的權利

(1) 任何人如其行為是調查標的，或受牽連或牽涉在調查標的內，則除第 4 條另有規定外，該人有權在調查研訊中

(2) 就第 (1) 款而言，委員會須決定某人的行為是否調查標的，或某人是否在任何方面受牽連或牽涉在調查標的內。

(3) 儘管有第 (1) 及 (2) 款的規定，但除第 4 條另有規定外，行政長官、任何政府部門及任何公職人員均有權在調查 研訊中由律政人員或由大律師或律師代表，該律政人員、大律師或律師並可 —

(a) 就政務司司長或律政司司長對其有所指示的任何事 宜，向委員會陳詞，及

(b) 就任何事宜，以委員會允許的形式出示證據。

(4) 委員會可委任律政司司長所提名的律政人員或委任一名 大律師或律師作為委員會的代表律師。

7. 在民事及刑事法律 程序中使用證據

任何人在委員會席前提供的證據和委員會的任何裁斷或結論，不得在由該人提出或針對該人提出的任何民事或刑事法律程序中，被接納為針對該人或他人的證據，但如該人被控以《刑事罪行條例》(第 200 章)第 V 部(宣誓下作假證供)所訂的任何罪行，或根據第 8 或 9 條被檢控，則屬例外。

8. 向委員會的審查員出示文件及提供證據

- (1) 公共機構或其他團體的所有高級人員及代理人，均有責任向根據第 4(1)(n) 條獲委查閱該機構或團體的簿冊及文件的審查員，出示所有在他們保管或權力管轄下的該機構或團體或任何其他團體事務的簿冊及文件，或與該機構或團體或任何其他團體事務有關的簿冊及文件，而該等其他團體須為審查員根據第 4(1)(n) 條獲委查閱其簿冊及文件的團體。該等人員及代理人並有責任在其他方面向審查員提供其能合理提供的一切協助。
- (2) 在本條中，凡提述公共機構或其他團體的高級人員或代理人之處，須包括過去及現在的高級人員或代理人(視屬何情況而定)，而為本條的施行，“代理人”(agents)包括該機構或團體的銀行及律師，以及任何獲該機構或團體委聘為核數師的人，不論該人是否該機構或團體的高級人員。

9. 藐視屬罪行

- (1) 任何人 —
 - (a) 無合理辯解而沒有在根據第 4 條發出的傳票所指明 的時間及地點出席;
 - (b) 拒絕應根據第 4 條提出的要求而作出宗教式或非宗 教式宣誓;
 - (c) 拒絕回答由委員會提出或經委員會同意而提出的任 何問題，或拒絕應根據第 4 條提出的要求，出示其 管有或控制的任何物品或文件;
 - (d) 身為第 8 條所指的公共機構或其他團體的高級人員 或代理人 ——
 - (i) 在有委員會委出後，意圖避免出示或阻止出示在有 審查員根據第 4(1)(ma) 條獲委任時他會有責任向審 查員出示的任何簿冊或文件，而將該等簿冊或文件 銷毀、隱藏、污損或帶走，或
 - (ii) 無合法權限或合理辯解而拒絕向獲如此委任的審查 員出示任何該等 簿冊或文件，或
 - (iii) 無合法權限或合理辯解而拒絕回答獲如此委任的審 查員就該機構或 團體或任何其他團體的事務而提出 的問題，而該等其他團體須為審 查員獲委查閱其簿 冊及文件的團體;

- (e) 故意中斷委員會的調查程序的進行，或在委員會的任何聆訊中有其他不當行為；
- (f) 經被傳召出席而在未經委員會允許下離開委員會正進行研訊的地方，

即屬犯罪，一經循簡易程序定罪，可處罰款 \$1,000 及監禁 3 個月。

(2) 任何人——

- (a) 故意妨礙或阻嚇任何人出席、作證或出示任何物品
- (b) 或文件；
- (c) 因某人曾到委員會席前而對他加以威脅或侮辱，或導致他蒙受任何損失；
- (d) 因任何委員執行其作為委員的職責而在任何時間對他加以威脅或侮辱，或導致他蒙受損失；
- (e) 發表或以其他方式披露委員會禁止其發表或披露的資料；
- (f) 發表或以其他方式披露委員會在非公開研訊中收取的資料，

即屬犯罪，一經循公訴程序定罪，可處罰款 \$10,000 及監禁 1 年。

- (3) 在根據第 (2)(e) 款提出的檢控中，如被控人能提出證明，令法院信納他不知道所發表或披露的資料是委員會在非公開研訊中收取的，而他亦無任何理由知道該事實，即為好的免責辯護。

10. 由委員會處理的藐視罪

- (1) 委員會可將在其席前所犯的第 9 條所指明的任何罪行作為藐視罪而循簡易程序處理，並可施加該條訂明的刑罰。
- (2) 對於並非在委員會席前所犯的藐視罪，委員會如根據第 3 條獲賦予權力，可傳召犯罪者於傳票上指明的時間及地點到委員會席前，當場提出其不應因該藐視罪而被判處刑罰的因由，委員會亦可施加第 9 條訂明的刑罰。
- (3) 委員會可發出逮捕令，以強迫任何不遵從根據第 (2) 款發出的傳票的人出席。
- (4) 凡委員會認為該藐視罪已予抵償，可減免根據本條所處的監禁刑罰。
- (5) 任何人因委員會在行使第 (1) 或 (2) 款所授予的權力時所作的任何決定、命令或判處而感到受屈，可按照終審法院首席法官訂立的規則，向原訟法庭法官提出上訴，猶如該決定、命令或判處是根據《裁判官條例》(第 227 章) 第 113 條可提出上訴的裁判官命令一樣。

11. 委員會具有法官的權力

為強制執行任何已施加的罰款的繳付，或為使任何逮捕令或監禁刑罰得以執行，或為其他類似目的，委員會具有法官的權力。在行使該等權力時及為發出手令、傳召任何人及行使其他類似權力，主席可以委員會名義作出一切必要的作為。

12. 調查研訊屬司法程序

- (1) 根據本條例進行的調查研訊，須當作為司法程序。
- (2) 任何行為，假若對原訟法庭或法官作出會構成藐視原訟法庭罪或藐視法官罪（視屬何情況而定），即屬藐視委員會罪，可由原訟法庭法官作為藐視原訟法庭罪處理及施加懲罰。

13. 對委員會及證人的保障

- (1) 委員無須因其以委員身分真誠作出的任何作為或任何事情，而在任何訟案或其他法律程序中負上法律責任：

但本款不得當作限制原訟法庭就在委員會席前進行的調查程序而作出履行義務令、移審令或禁止令的權力。

- (2) 在委員會席前提供的所有證據均享有絕對特權，提供該等證據的證人，無須因該等證據而在任何訟案或其他民事法律程序中負上法律責任。
- (3) 到委員會席前的律政人員、大律師或律師，不論是根據或憑藉第 6 條以委員會的代表律師身分或以其他身分出席，其所享有的豁免權，均猶如其在原訟法庭席前進行的法律程序中代表其中一方出庭一樣。

14. 警方及執達主任須協助委員會

任何委員會根據本條例進行調查研訊時，警務人員及法院執達主任須在該委員會所要求的各方面協助委員會，並可為提供該等協助而作出一切需要的事情。

15. 調查研訊費用

根據本條例進行調查研訊的費用，包括根據第 4(1)(h) 條判給的款項，須由香港政府一般收入支付。

16. 對發表真實記載的人的保障

除第 9(2)(d) 條另有規定外，任何人均無須因其就在委員會席前公開錄取的任何證據，或就由行政長官授權發表的委員會報告，發表真實記載，而在任何民事或刑事法律程序中負上法律責任。

《調查委員會（2019年騷亂）條例》

附表

表格 1

委員作出的宗教式或非宗教式宣誓的格式〔第 3 條〕

本人.....，謹對全能上帝（天主）宣誓（謹鄭重承諾及聲明），本人將盡力調查委任本委員會的文書中所訂明的事宜，並盡本人所知及所判斷，忠實執行《調查委員會（2019年騷亂）條例》（第 xx 章）歸於本人的權力及信託。

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表格 2

傳召證人的傳票〔第 4 條〕

致....A.B〔. 被傳召的人的姓名及其地址〕。

現傳召你於.....年.....月.....日.....午.....時到〔地點〕

.....

在按《調查委員會（2019年騷亂）條例》（第 xx 章）委任調查〔述明調查標的〕.....的調查委員會席前，並就該項調查作證。你必須攜同〔指明文件等〕

..... 出席。

由委員.....於 20.....年.....月.....日

簽署發出。