

**133rd MEETING OF
THE INDEPENDENT POLICE COMPLAINTS COUNCIL (IPCC) MEETING WITH
THE COMPLAINTS & INTERNAL INVESTIGATIONS BRANCH (C&IIB) HELD AT
THE IPCC SECRETARIAT OFFICE
AT 1500 HOURS ON THURSDAY 22 MAY 2008**

Present : Mr Ronny WONG Fook-hum, SC, JP (Chairman)
Dr Hon LUI Ming-wah, SBS, JP (Vice-chairman)
Mr YEUNG Yiu-chung, BBS, JP
Dr LO Wing-lok, JP
Mr Edward PONG Chong, BBS, JP
Mr HUI Yung-chung, BBS, JP
Dr Michael TSUI Fuk-sun
Ms Priscilla WONG Pui-sze, JP
Dr Lawrence LAM Chi-kit, MH
Mr WONG Kwok-yan
Mr Clement TAO Kwok-lau, BBS, JP
Ms Emily CHEUNG Mui-seung
Mrs Philomena LEUNG, Secy IPCC
Ms Angela HO, SGC IPCC
Mr Brandon CHAU, Deputy Secy IPCC (Joint Secretary)
Mr Michael B. DOWIE, DMS
Mr J.P. RIBEIRO, SSP CAPO
Mr CHEUNG Kin-kwong, SP CAPO HQ (Joint Secretary)

In Attendance : Mr Eddie WONG, SAS(PS)
Mr Henry CHAN, SAS(1)
Ms Fiona LI, SAS(2)
Mr Bernard KAN, SAS(3)
Mr Dick KOK, AS(PS)2
Mr SIU Kit-hung, SP CAPO K
Mr TONG Chi-chung, CIP CAPO HQ
Ms CHUNG Wing-man, CIP CAPO HQ (Des)
Mr WONG Kai-man, CIP Team 1, CAPO K (Ag)
Mr LEE Hang-lam, CIP Team 3, CAPO K
Mr WONG Kwok-yin, CIP Team 6, CAPO HKI
Ms CHAN Shuk-ming, Ming, SIP IPCC C&IIB
Mr LAM Chi-ping, SIP SUP CAPO
Mr WONG Ho-hon, SIP Team 1a, CAPO K
Mr LEE Kwok-chung, SIP Team 3a, CAPO K
Ms MA Yee-ling, SIP Team 3b CAPO K

Absent with Apologies: Hon Daniel LAM Wai-keung, SBS, JP (Vice-chairman)
Dr Hon Joseph LEE Kok-long, JP (Vice-chairman)
Prof Benjamin TSOU Ka-yin, BBS
Dr TSE Tak-fu, BBS
Mrs Helena YUEN CHAN Suk-yee
Mr Barry CHEUNG Chun-yuen, JP
Mr Alfred MA Wai-luk, ACP SQ
Mr Alan FAN Sik-ming, CSP C&IIB

PART A CLOSED MEETING

This was the Closed Part of the meeting for the IPCC and representatives of C&IIB to discuss matters of mutual concern. The minutes of the meeting will not be uploaded onto the IPCC Homepage.

PART B OPEN MEETING

OPENING ADDRESS

The Chairman welcomed all to the meeting.

I CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 27 MARCH 2008 (Open Part)

2. The minutes of the last meeting (Open Part) were confirmed without amendment.

II CAPO'S CRIMINAL AND DISCIPLINARY CHECKLIST

3. SSP CAPO briefed the meeting that he had nothing to highlight in respect of the checklist.

4. The Chairman noted that there were a number of cases on the checklist where officers involved in Informal Resolution (IR) were advised to be tactful in the choice of words when they explained the IR procedures to

the complainants, as reported as items A33, A96 and A97 of the checklist. He invited CAPO to comment on whether sufficient training or guidelines were provided to officers involved in the handling of IR.

5. SSP CAPO replied that the CAPO Manual Chapter 8 had provided sufficient procedural guidelines on the conduct of IR that there must be no admission of liability, the complainant should be advised the meaning of IR by an inspectorate officer or above and once IR was conducted there would be no review procedure. To remind frontline officers of the relevant provisions in the CAPO Manual, those matters would be highlighted as 'Matters of Interest' in the CAPO Monthly Report. CAPO officers would also disseminate the information to formations during liaison visits and complaint prevention talks. On the subject of IR, a series of workshops were held by CAPO between February and April 2008 when a total of 113 inspectorate officers attended.

III CAPO'S MONTHLY STATISTICS

6. SSP CAPO briefed the meeting on the complaints statistics for March and April 2008. There were 224 complaints received in March 2008, representing an increase of 8.2% (+17 cases) when compared with the statistics of the previous month. The figure for February 2008 was 207 cases. For the month of April 2008, 255 complaints were received, representing an increase of 13.8% (+31 cases) when compared with the statistics of the previous month..

7. The number of 'Neglect of Duty' complaints received in March 2008 was 98 cases, an increase of 22.5% (+18 cases) when compared with the statistics of the previous month. The figure for February 2008 was 80 cases. For the month of April 2008, the number of 'Neglect of Duty' complaints received was 125 cases, which was an increase of 27.6% (+27 cases) when compared with the statistics of the previous month.

8. The number of 'Misconduct/Improper Manner & Offensive Language' complaints received in March 2008 was 67 cases, an increase of 1.5% (+1 case) when compared with the statistics of the previous month. The figure for February 2008 was 66 cases. For the month of April 2008, the number of 'Misconduct/Improper Manner & Offensive Language' complaints

received was 62 cases, which was a decrease of 7.5% (-5 cases) when compared with the statistics of the previous month.

9. The number of 'Assault' complaints received in March 2008 was 29 cases, a decrease of 21.6% (-8 cases) when compared with the statistics of the previous month. The figure for February 2008 was 37 cases. For the month of April 2008, the number of 'Assault' complaints received was 37 cases, which was an increase of 27.6% (+8 cases) when compared with the statistics of the previous month.

10. In the first four months of 2008, a total of 915 complaints were received. It represented an increase of 12.1% (+99 cases) when compared with 816 cases of the same period last year.

11. The total number of 'Neglect of Duty' complaints received in the first four months of 2008 was 398 cases. It represented an increase of 19.5% (+65 cases) when compared with 333 cases of the same period last year.

12. The total number of 'Misconduct/Improper Manner & Offensive Language' complaints received in the first four months of 2008 was 264 cases. It represented an increase of 22.2% (+48 cases) when compared with 216 cases of the same period last year.

13. The total number of 'Assault' complaints received in the first four months of 2008 was 144 cases. It represented a decrease of 10% (-16 cases) when compared with 160 cases of the same period last year.

14. There was an increase in the complaints figure of the first four months of 2008 when compared with the same period in 2007 and CAPO would closely monitor the situation.

IV

A COMPLAINT CASE FOR DISCUSSION

15. Secy/IPCC briefed the meeting on the case for discussion. On 29 October 2006, a meeting was held amongst residents and owners of Estate A to decide whether the Management Committee (MC) of the estate should be dissolved. In the event, the proposal was voted down. On 3 November,

the complainant (COM), who was a resident in Estate A, made a report of 'Suspected Forgery' to the Police, claiming that some of the blank voting slips were counterfeits. However, the Police did not seize the voting slips and the stamp in question as exhibits for forensic examination until 9 and 22 November. The forensic examination result revealed no evidence in support of the case. The 'Suspected Forgery' case was formally classified as 'No Crime Detected' on 6 January 2007.

16. COM lodged a complaint against the officer-in-charge (COMEE) of the 'Suspected Forgery' case as follows:

(i) COMEE had ignored his request for seizing the owners' registers and delayed the seizure of the relevant voting slips as exhibits for examination [**Allegation (a) – 'Neglect of Duty'**];

(ii) COMEE allegedly treated COM impolitely by saying, 'He can refuse to give it to police, can burn it, throw it away and we cannot arrest them' when he attended the Management Office of Estate A to seize the used voting slips as control samples on 22 November 2006 [**Allegation (b) – 'Impoliteness'**]; and

(iii) COM further stated that on 4 January 2007, he received a notice issued by the MC to residents and owners of Estate A, informing them that the investigation of the 'Suspected Forgery' case was curtailed by the Police. However, COM did not receive any formal reply from COMEE until their teleconversation on 11 January. COM was dissatisfied with the way COMEE handled the matter [**Allegation (c) – 'Neglect of Duty'**].

17. COMEE's version was that although his team received COM's report on 3 November 2006, he was out of office and did not resume duty until 6 November. He then arranged to interview the Chairman of the MC on 9 November and to seize the exhibits on the same day. Prior to the seizure, he instructed his staff to contact the representative of the Home Affairs Department (HAD) to ascertain whether the latter would be present during the opening of the ballot box but no reply was received. Moreover, COMEE learnt from the investigating officer of the case that the voting slips were safely kept in the Management Office and free from interference. As such, he did not take any seizure action until 9 November. He denied

having treated COM impolitely on 22 November but admitted that he had said the alleged remark during their encounter.

18. Upon receipt of the forensic examination result, COMEE classified the case as 'No Crime Detected' on 4 January 2007. When enquired by COM over the phone on 11 January 2007, COMEE informed COM of the investigation result and then issued a letter to him on the same day, formally notifying him of the curtailment of the crime investigation. The investigating officer of the 'Suspected Forgery' case was also enquired. He explained that on 3 November 2006, he received the report of COM and took a statement from him. He then proceeded on a few days' leave and on 9 November, he was instructed by COMEE to contact the HAD representative but the attempts were to no avail.

19. The records in the case file confirmed that the 'Suspected Forgery' case was classified as 'No Crime Detected' by COMEE on 4 January 2007, a curtailment letter was issued by COMEE to COM on 11 January, and the relevant crime case file was formally closed on 23 January 2007.

20. For allegation (a) – 'Neglect of Duty', CAPO opined that it was not unreasonable for COMEE not to seize the exhibits until 9 November 2006 as he was satisfied that the voting slips, being securely stored in the Management Office, were free from interference. Moreover, he needed to undertake preparatory work, including to obtain a statement from the Chairman of the MC as well as to contact the HAD representative to ascertain her role in opening the ballot box.

21. For allegation (c) – 'Neglect of Duty', CAPO noticed that COM was duly informed by COMEE in writing prior to the closure of the relevant crime case file. CAPO did not find any impropriety on the part of COMEE in handling that matter. Both allegations (a) and (c) were therefore classified as 'No Fault'. For allegation (b) – 'Impoliteness', as COMEE admitted having said the alleged remark which was considered unnecessary by CAPO and unpleasant to COM, it was classified as 'Substantiated', and COMEE would be advised.

22. CAPO's investigation also revealed that the investigating officer of the 'Suspected Forgery' case had failed to document his attempts to contact the HAD representative. As for COMEE, he had also failed to discharge his supervisory duty to ensure that such a record was made in the crime case file. An 'Outwith' matter was therefore registered against both the investigating officer of the 'Suspected Forgery' case and COMEE, and they would be suitably advised.

23. After examining the investigation report, IPCC did not object to the classification for allegation (b) – 'Impoliteness' but had reservation about the 'No Fault' classification for allegations (a) and (c) – 'Neglect of Duty'. The Council's observations were detailed as follows –

(i) For allegation (a), according to the statement of the investigating officer of the 'Suspected Forgery' case, the interview with the Chairman of the MC was in progress at the time when COMEE attended the Management Office of Estate A to seize the problematic voting slips. Moreover, at the time when the seizure took place, COMEE was aware that the HAD representative still could not be reached. In other words, the interview with the Chairman of the MC and the view of the HAD representative were not prerequisites to the seizure action;

(ii) As the voting slips in question were key exhibits without which the 'Suspected Forgery' case could not be furthered, IPCC considered COMEE should have been more vigilant in seizing them at the earliest opportunity so as to protect them from any inadvertent interference;

(iii) For allegation (c), COM was dissatisfied that COMEE had disclosed to the MC, i.e. the suspect of his report, the investigation result of the 'Suspected Forgery' case prior to notifying him as the informant. In this connection, CAPO was requested to clarify whether COMEE did disclose to the MC the investigation result of the crime case concerned on 4 January 2007 as alleged, and if so, whether the arrangement was undesirable; and

(iv) COMEE stated in the curtailment letter issued to COM on 11 January 2007 that the investigation of the case was curtailed on 9

January. This differed from the version COMEE allegedly disclosed to the MC. Further clarification by CAPO in this respect was requested.

24. On IPCC's observations, for allegation (a), CAPO remarked that whether a property was required as an exhibit and when it should be seized should be determined by the officer-in-charge of individual case. This notwithstanding, CAPO agreed that, in the instant case, COMEE should have initiated proactive measures to protect the essential exhibits of the 'Suspected Forgery' case and to ensure they were free from inadvertent interference. As such, allegation (a) was re-classified from 'No Fault' to 'Substantiated'. Despite COMEE's carelessness, the exhibits of the case had not been tampered with and the crime case investigation had not been impeded. COMEE would be advised to take into account the security of potential exhibits in considering any seizure action in future.

25. For allegation (c), the 'Suspected Forgery' case was classified as 'No Crime Detected' by COMEE on 4 January 2007. The Chief Inspector of Police (CIP) of the Formation concerned approved the classification on 6 January. CAPO did not find any impropriety on the part of COMEE as long as the curtailment letter to COM was issued after the 'No Crime Detected' classification was formally approved by the CIP of the Formation concerned.

26. Upon further enquiry, COMEE stated that he had only informed the MC over the phone on 3 or 4 January 2007 that the forensic examination did not reveal any suspicious circumstances. Contrary to the version of the MC, COMEE denied having mentioned to them anything in relation to the curtailment of the investigation of the 'Suspected Forgery' case. However, in the absence of independent and corroborative evidence to prove that COMEE did pre-maturely disclose the investigation result of the crime case concerned to the MC prior to the CIP's approval of the 'No Crime Detected' classification, allegation (c) was re-classified from 'No Fault' to 'Unsubstantiated'.

27. CAPO further found that COMEE had mistakenly stated in the curtailment letter to COM of 11 January 2007 that the investigation case ceased on 9 January 2007. The issue was to be dealt with as an 'Outwith' matter and COMEE would be advised. IPCC was satisfied with CAPO's response and endorsed the investigation report. IPCC considered it

important for the officer-in-charge of a crime case to consider the security of potential exhibits, and to take timely seizure action so that the crime investigation would not be impeded by any inadvertent loss/damage to essential evidence.

28. Dr LO Wing-lok noted that CAPO's investigation concluded that the criminal investigation had not been impeded by the delay in the seizure of ballot papers, which were the most important exhibits in the case. He queried why CAPO was certain that the exhibits had not been interfered in the interval and invited CAPO to provide the grounds of its conclusion.

29. SSP CAPO replied that the questioned exhibits including the ballot papers and the stamp were subsequently sent to Government Laboratory for forensic examination and the Government Chemist concluded that there was no sign of forgery or suspicious circumstances. It was therefore logical for CAPO to conclude that there was no interference and the criminal investigation had not been impeded.

V

ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING

30. There being no other business, the meeting concluded at 1620 hours.

(CHEUNG Kin-kwong)
Joint Secretary
Complaints and Internal
Investigations Branch

(Brandon CHAU)
Joint Secretary
Independent Police
Complaints Council