

**134th MEETING OF
THE INDEPENDENT POLICE COMPLAINTS COUNCIL (IPCC) MEETING WITH
THE COMPLAINTS & INTERNAL INVESTIGATIONS BRANCH (C&IIB)
HELD AT THE IPCC SECRETARIAT OFFICE
AT 1623 HOURS ON FRIDAY, 18 JULY 2008**

Present: Mr JAT Sew-tong, SC (Chairman)
Dr Hon Joseph LEE Kok-long, JP (Vice-chairman)
Mr YEUNG Yiu-chung, BBS, JP
Dr LO Wing-lok, JP
Mr Edward PONG Chong, BBS, JP
Dr Michael TSUI Fuk-sun
Dr TSE Tak-fu, BBS
Dr Lawrence LAM Chi-kit, MH
Mr WONG Kwok-yan
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 Alfred MA Wai-luk, ACP SQ
Mr Alan FAN Sik-ming, CSP C&IIB
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)
Miss Moira LAU, AS(PS)1
Ms CHUNG Wing-man, CIP CAPO HQ
Mr NG Wai-hon, CIP Team 5 CAPO HKI
Ms YIP Kim-ying, SIP Team 6b CAPO HKI
Ms MA Yee-ling, SIP Team 3b CAPO K
Mr WONG Kai-man, SIP SUP CAPO
Ms CHAN Shuk-ming, SIP IPCC C&IIB

Absent with Apologies: Hon Daniel LAM Wai-keung, SBS, JP (Vice-chairman)
Dr Hon LUI Ming-wah, SBS, JP (Vice-chairman)
Mr HUI Yung-chung, BBS, JP
Prof Benjamin TSOU Ka-yin, BBS
Ms Pricilla WONG Pui-sze, JP
Mrs Helena YUEN CHAN Suk-yee
Mr Barry CHEUNG Chun-yuen, JP
Mr Clement TAO Kwok-lau, BBS, JP

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 22 MAY 2008 (Open Part)

2. The minutes of the last meeting (open part) were confirmed without amendment.

II CAPO'S CRIMINAL AND DISCIPLINARY CHECKLIST

3. The Chairman invited CAPO to brief the meeting regarding the CAPO's Criminal and Disciplinary Checklist covering the period from 8th May 2008 to 25th June 2008.

4. CSP C&IIB highlighted 5 cases in which the officers concerned failed to record their encounters with members of the public in their police notebooks, as reported in items A27, A49, A54, A98 & A118 of the checklist:-

A27- The complainant made a report at police station and two officers made enquiry with her. She later alleged that the officers had mistreated her. Although there was no evidence to substantiate the allegation, the officers were advised to record their encounters with the complainant in their police notebooks.

A49- The complainant alleged that she was treated impolitely by police when she was interviewed. After investigation, the allegation was classified as 'Unsubstantiated' but the interviewing officer was advised to make a notebook entry in regard to the statement taking.

A54 - The complainants made a report to a patrolling officer and

later alleged that the officer treated them impolitely and neglected his duty. Although the complaint was later withdrawn, the officer concerned was reminded to record his encounter with the complainants in his police notebook.

A98- The complainant alleged that a police officer had uttered impolite and threatening remarks to him. Despite there was no evidence to substantiate the allegations, the officer concerned was advised to make a notebook entry in regard to his encounter with the complainant.

A118- A police officer, in response to a report of 'Request for Police Assistance', visited the complainant's residence with a view to locating him for enquiry but did not record his visit in his notebook. The officer concerned was advised to make accurate record of the result of enquiry in his police notebook.

5. CSP C&IIB briefed the meeting that in accordance with Police General Orders 53-01(6), officers should make notes of matters pertaining to his duty, in particular when a report or complaint was made to him, and the time, location and the witness with whom he took a statement. In this regard, CAPO officers would remind frontline officers to adhere to the relevant orders during liaison visits and complaints prevention talks. The issue would also be highlighted in the CAPO Monthly Report as 'Matters of Interest' and forwarded to the Complaints Prevention Committee for further actions.

6. The Chairman asked whether the Force had provided adequate guidelines and training to officers on the requirement of making notebook entries. CSP C&IIB briefed the meeting that during the foundation training and subsequent continuation training such as detective course, police officers were briefed on the requirement to make notebook entries for encounters with members of the public and exercise of police powers. The Police College would review the training contents from time to time to ensure sufficient training was provided to officers.

7. Dr LO Wing-lok asked if there was any estimation on the time spent by a police officer on making notebook entries and whether such duties would account for a significant portion of his shift. CSP C&IIB replied that there was no study conducted in this regard but a snapshot review on police

orders and guidelines revealed that there were more than 90 occasions when police officers were required to make a record in their police notebooks. The actual time an officer spent on making notebook entries would depend on the nature of his duty and the number of encounters he made during his shift.

III CAPO'S MONTHLY STATISTICS

8. CSP C&IIB reported that a total of 218 complaints were received in May 2008, a decrease of 11.7% (-29 cases) when compared with 247 cases of the previous month. For the month of June 2008, 217 complaints were received, representing a decrease of 0.5% (-1 case) when compared with the statistics of the previous month.

9. The number of 'Neglect of Duty' complaints received in May 2008 was 91 cases, a decrease of 25.4% (-31 cases) when compared with 122 cases of the previous month. For the month of June 2008, the number of 'Neglect of Duty' complaints received was 93 cases, which was an increase of 2.2% (+2 cases) when compared with the statistics of the previous month.

10. The number of 'Misconduct/Improper Manner & Offensive Language' complaints received in May 2008 was 71 cases, an increase of 24.6% (+14 cases) when compared with 57 cases of the previous month. For the month of June 2008, the number of 'Misconduct/Improper Manner & Offensive Language' complaints received was 64 cases, which was a decrease of 9.9% (-7 cases) when compared with the statistics of the previous month.

11. The number of 'Assault' complaints received in May 2008 was 37 cases, a decrease of 2.6% (-1 case) when compared with 38 cases of the previous month. For the month of June 2008, the number of 'Assault' complaints received was 27 cases, which was a decrease of 27.0% (-10 cases) when compared with the statistics of the previous month.

12. In the first six months of 2008, a total of 1,339 complaints were received, representing an increase of 6.4% (+80 cases) when compared with 1,259 cases of the same period last year.

13. The total number of 'Neglect of Duty' complaints received in the

first six months of 2008 was 578 cases, representing an increase of 10.1% (+53 cases) when compared with 525 cases of the same period last year.

14. The total number of 'Misconduct/Improper Manner & Offensive Language' complaints received in the first six months of 2008 was 387 cases, representing an increase of 19.1% (+62 cases) when compared with 325 cases of the same period last year.

15. The total number of 'Assault' complaints received in the first six months of 2008 was 206 cases, representing a decrease of 16.6% (-41 cases) when compared with 247 cases of the same period last year.

16. Overall speaking, there was a slight increase of 6.4% in the complaint figures for the first 6 months of 2008 but no particular trend was identified as the figures were comparable to the statistics of the same period in previous years.

IV CASE FOR DISCUSSION

17. Secy/IPCC briefed the meeting on the case for discussion. The complainant (COM) was arrested for 'Assault Occasioning Actual Bodily Harm'. COM lodged a complaint alleging that two crime investigation officers had failed to conduct proper investigation. She also alleged that five woman officers had abused their power in conducting a total of six strip searches on her within a short period of time during her detention. She later pleaded guilty to the charge and was sentenced to probation order for 12 months. She withdrew her complaint of 'Neglect of Duty' and the allegation was thus classified as 'Withdrawn'.

18. In respect of the six allegations of 'Unnecessary Use of Authority', the five female officers involved denied that they had conducted 'strip search' on COM but admitted that they had searched her. CAPO investigation revealed that searches had been conducted on COM six times during her detention. CAPO considered that all six searches were conducted in accordance with police procedures and classified the allegations as 'Unsubstantiated' in the absence of any independent witness or evidence to prove otherwise.

19. IPCC examined the case and found that three of the searches,

which were conducted prior to removing COM from the cell were improper and unnecessary irrespective of the extent of the searches based on the following grounds:-

- a) on each occasion before COM was detained in the police cell, she had been searched and found that she was not in possession of any illicit item;
- b) there was no reason to suspect that any illicit item had come into COM's possession during her detention in the cell; and
- c) there was no police order requiring an officer to conduct a search on a detainee prior to removal from a Temporary Holding Area or a cell.

20. After several rounds of discussion, CAPO changed the classification of the three allegations from 'Unsubstantiated' to 'Substantiated'. The involved officers would be advised without divisional record file entry. IPCC was satisfied with CAPO's response and endorsed CAPO's investigation report.

21. Dr LO Wing-lok queried why the police officers involved had conducted a search on the complainant prior to removing her from the cell. He also asked under what circumstances would a detained person need to be searched prior to leaving a cell.

22. CSP C&IIB responded by saying that the officers concerned in the instant complaint believed that they had a responsibility to ensure that the detained person was not in possession of any illicit item or weapon before the detained person was escorted from one location to another. Despite there was no police order empowering the officers to do so, CAPO considered that the officers had no malicious intent. An officer conducting a search on a detained person prior to removing him from a cell must have sufficient legal basis that he reasonably suspected that the detained person was in possession of an illicit item or weapon. The officers involved in the instant complaint did not conduct the search with appropriate legal grounds and CAPO would take corresponding disciplinary action against the officers concerned.

23. The Chairman asked whether sufficient guidelines or training were in place for frontline officers as regards the search on detained persons.

24. CSP C&IIB briefed the meeting that a set of revised orders and guidelines on 'Searching of Detained Persons' was promulgated on 1st July

2008. The guidelines stipulated that officers should search a detained person to ensure that he was not in possession of any illicit item or weapon that could harm any person or effect an escape before he was detained in a police cell or a Temporary Holding Area. The revised guidelines also provided clear procedures in respect of different scopes of search on detained persons. Nevertheless, CAPO would bring the instant complaint to the attention of relevant policyholder to review whether current training should be enhanced to emphasize the legal basis of conducting search on detained persons.

25. Dr LO Wing-lok said that most of the searches were conducted because the arrested persons were subsequently detained in police custody. He commented that if the arrested persons were eventually granted bail, such searches would then become unnecessary. He asked whether police considered a review on the existing guidelines on bail necessary.

26. CSP C&IIB said that the existing police guidelines provided a number of factors that an officer-in-charge of a case (OC Case) should consider before he decided whether an arrested person should be detained or bailed. As circumstances for each and every case differed, it was not practical to provide an instruction to specify under what circumstances an OC Case had to grant bail. Nevertheless, CAPO would forward the view of the Council to relevant policyholder for consideration.

27. The Chairman sought to clarify whether officers were required to tick in the appropriate box on the 'Custody Search Form' (Pol. 1123) in accordance with the scope and reason of the search conducted and whether the detained persons would be asked to sign on the form.

28. CSP C&IIB affirmed that the interpretation of the Chairman was correct.

V

ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING

29. There being no other business, the meeting concluded at 1710 hours.

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

(Brandon CHAU)
Joint Secretary
Independent Police
Complaints Council