

**Meeting of the Independent Police Complaints Council (IPCC)
with the Complaints & Internal Investigations Branch (C&IIB) held at
the IPCC Secretariat Office at 1800 hours on Friday, 5 December 2008**

Present : Mr JAT Sew-tong, SC (Chairman)
Dr LUI Ming-wah, SBS, JP (Vice-chairman)
Mr Edward PONG Chong, BBS, JP
Prof Benjamin TSOU Ka-yin, BBS
Dr TSE Tak-fu, BBS
Dr Helena YUEN CHAN Suk-yee
Mr Clement TAO Kwok-lau, BBS, JP
Ms Emily CHEUNG Mui-seung
Mrs Philomena LEUNG, Secy/IPCC
Ms Cherry CHAN, LA/IPCC
Mr Brandon CHAU, Deputy Secy IPCC (Joint Secretary)
Mr Michael B. DOWIE, DMS
Mr Alan FAN Sik-ming, ACP SQ (Ag)
Mr J.P. RIBEIRO, SSP CAPO
Ms Eve CHUNG Wing-man, SP CAPO HQ (Ag) (Joint Secretary)

In Attendance : Mr Eddie WONG, SAS(PS)
Ms Fiona LI, SAS(2)
Miss Moira LAU, AS(PS)1
Mr WONG Mui, SIP Team 4a CAPO K
Mr WONG Kai-man, SIP SUP CAPO
Ms CHAN Shuk-ming, SIP IPCC C&IIB

Absent with Apologies: Mr Daniel LAM Wai-keung, SBS, JP (Vice-chairman)
Dr Hon Joseph LEE Kok-long, JP (Vice-chairman)
Mr YEUNG Yiu-chung, BBS, JP
Dr LO Wing-lok, JP
Mr HUI Yung-chung, BBS, JP
Dr Michael TSUI Fuk-sun
Ms Priscilla WONG Pui-sze, JP
Mr Barry CHEUNG Chun-yuen, JP
Dr Lawrence LAM Chi-kit, MH
Mr WONG Kwok-yan
Mr Alfred MA Wai-luk, ACP SQ
Mr SIU Kit-hung, SP CAPO HQ (Joint Secretary)

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 24 September 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 9 September 2008 to 19 November 2008.

4. ACP SQ (Ag.) highlighted four cases relating to the failure to comply with the requirements for handling of complaints made to individual officer concerning his own actions, as reported in items A113, A127, A148 and A160 of the checklist. He went on to brief the gist of the cases as follows:-

A113- The complainee was a report room staff receiving the complainant's call for making a report of traffic contravention. On the next day, the complainant alleged that the complainee failed to handle the report properly. During the complaint investigation, it was revealed that the complainee failed to report to her immediate supervisor at the earliest opportunity of the fact that COM wished to make a complaint against her.

A127- The complainee ticketed the complainant for a traffic offence. A few months later, the complainant lodged a complaint against the complainee who had allegedly promised not to proceed with the ticket. Upon CAPO investigation, the complainee was

found to have failed to inform his supervisory officer that the complainant had told him that he wanted to complain against him during the traffic enforcement.

A148- The complaine was conducting crowd management duty for a public order event where he allegedly bumped into the complainant resulting in the dropping of the complainant's mobile phone onto the ground. A complaint was later made against the complaine for various allegations. Enquiries revealed that the complainant had made a complaint to the complaine against his own misconduct during the encounter but the matter was never reported to the complaine's supervisory officers.

A160- The complaine, a crime officer, conducted an investigation with his teammates in a building. The complainant was a security guard of the building who subsequently made a complaint against the complaine for searching his drawer in the management office without authority. Upon enquiry by CAPO, it was revealed that the complainant had indicated to the complaine that he wanted to complain against the complaine. However, the complaine did not inform his supervisory officer of the same.

5. ACP SQ (Ag.) briefed the meeting that by virtue of the Police General Orders Chapter 26, officers were required 'to inform his immediate supervisory officer at the earliest opportunity whenever a Complaint Against Police is made to him concerning his own actions or relating to an incident to which he is a party or is directly involved. He will not initiate action but if asked, will inform the complainant how to lodge a complaint, i.e. to any police station, to Complaints Against Police reporting Centre in person, by telephone, via the Complaints Hotline, fax or e-mail. When a Complaint Against Police is brought to the attention of a supervisory officer he will initiate action to secure independent witnesses and corroborative evidence, and will ensure that the facts are reported to the Duty Officer immediately'. He considered that the existing guidelines were sufficiently clear. The issue would be highlighted in the CAPO Monthly Report as 'Matters of Interest'. CAPO officers would also disseminate the information to formations during liaison visits and complaint prevention talks.

III CASE FOR DISCUSSION

6. Secy/IPCC briefed the meeting on the case for discussion which related to the Police's handling of domestic violence. The complainant had been suffering from depression for years. On the material day, he had a quarrel with his wife, a two-way permit holder, and punched her face and body. The complainant was later arrested by the Police and was charged

with ‘Assault Occasioning Actual Bodily Harm’. On the same day, the complainant was escorted to hospital due to mental illness. The charge against him was eventually dismissed because his wife decided not to pursue the case.

7. The complainant lodged a complaint with CAPO alleging that in the course of the assault case investigation, a detective Senior Police Constable had forced him to sign a statement after his arrest and told him that there was no need for him to read the content of the statement [‘**Misconduct**’]; another Senior Police Constable had persuaded him to admit the offence [‘**Misconduct**’]; an unidentified plainclothes officer had not displayed his police warrant card when he visited his home [‘**Neglect of Duty**’]; and a detective Sergeant called his mobile phone a number of times to look for his wife and requested the latter to attend the police station to change her statement [‘**Misconduct**’].

8. After CAPO’s investigation, the first two ‘Misconduct’ allegations were classified as ‘Unsubstantiated’ and the third allegation as ‘Not Pursuable’ since the identity of the complainees could not be ascertained.

9. Regarding the fourth allegation of ‘Misconduct’, the complainees admitted that he had called the complainant four times to check the safety of his wife, and see if she had been approached by the Social Welfare Department (SWD) as the case had been referred to the Department for follow-up. The complainees explained that he did not call the complainant’s wife direct because she only provided a Mainland mobile phone number to the Police but making an IDD call in the police station involved some administrative procedures. He further claimed that by calling the complainant, he was able to reach both the complainant and his wife in one go. In case he noted any sign of irregularities during the telephone contacts, he would visit their home for enquiries. He denied having attempted to persuade the complainant’s wife to alter her statement during the calls. Having regard to the above, CAPO classified the allegation as ‘Unsubstantiated’.

10. After examining the investigation report, IPCC pointed out that the complainees’s telephone contacts with the complainant to check the safety of the victim were inappropriate as the complainant was the one who had assaulted his wife. The Council was of the view that the complainees should have approached the victim direct through her Mainland mobile phone number which had already been provided to the Police as a means of contact.

11. IPCC further commented that the complainees, as an experienced officer, should not have repeatedly called the complainant, a known mental

patient, who would likely be agitated and this might invite complaints. According to Force Procedures Manual, any person suspected or known to be mentally incapacitated should, as far as practicable, be interviewed in the presence of an appropriate adult. However, IPCC did not notice any such attempt by the Police in the statement taking process of both the assault case and the complaint case. IPCC urged the Police to remind frontline officers that they should handle domestic violence cases and mental patients with greater care and sensitivity.

12. CAPO explained that in the interviews, the complainant responded to questions rationally and was able to give logical, reasonable and coherent accounts of the matters. After re-examining the two statements concerned, CAPO did not see the interest or welfare of COM being compromised in both circumstances. However, in the light of IPCC's observation, CAPO registered a 'Substantiated Other Than Reported' count of 'Neglect of Duty' against the complainees for his inappropriate phone calls to the complainant. He would be duly advised to exercise greater care and sensitivity in handling domestic violence case and mental patients. Secy/IPCC invited CAPO to comment.

13. ACP SQ (Ag.) shared the Council's observation that that the officer concerned should have contacted the victim directly and therefore CAPO registered a count of 'Substantiated Other Than Reported' count of 'Neglect of Duty' against the officer. He agreed that the officer concerned was not sensitive enough in the handling of the domestic violence report and suitable advice would be tendered to the officer. The Force also recognized the importance of professional sensitivity and would enhance its trainings to frontline officers in this respect. On the other hand, he commented that while there were guidelines on statement taking from persons with mental illness with a view to protecting the interest and welfare of the interviewees, it appeared that there existed areas for improvement to the current guidelines. CAPO would forward the issue to relevant policyholder for a review.

14. Dr Helena YUEN CHAN Suk-yee noted that the complainees purportedly phoned the complainant to ascertain the follow-up actions of SWD and the safety of the victim. She pointed out that the lacking of sensitivity in handling domestic violence case, as displayed by asking the victim's condition in the presence of the opposite party and ascertaining the follow-up actions of SWD, might agitate the parties involved. She found it inappropriate for officers to interview both parties on the same occasion.

15. ACP SQ (Ag.) shared the observations of the Council and would convey the comments to frontline officers.

16. Dr LUI Ming-wah commented that the complainees probably acted in good faith but he lacked the sensitivity required. He asked whether the

incident reflected inadequate trainings and whether the case could be used as an example in future trainings.

17. ACP SQ (Ag.) responded by saying that the Force was planning to enhance trainings in this respect. He echoed that the instant case or similar incidents might be suitable training material and he would forward suitable cases to training formation for consideration.

18. Mr Clement TAO Kwok-lau referred to CAPO's previous remarks that there might exist areas for improvement to the existing guidelines on statement taking from persons with mental illness. He pointed out that failure of the officer concerned to take a statement in the presence of an appropriate adult was a contravention of the existing guidelines rather than a problem of inadequate guidelines.

19. ACP SQ (Ag.) replied that according to the existing guidelines, officers should interview a mentally incapacitated person in the presence of an appropriate adult and 'mentally incapacitated person' was defined in accordance with the Mental Health Ordinance. As mental illnesses included a wide range of disorders, a person with mental illness might not necessarily be a mentally incapacitated person. Bearing in mind that the provision was meant to protect the interest and welfare of those interviewees who could not protect their own, it would be necessary to examine whether the provision should cover minor mental illnesses like depression. ACP SQ (Ag.) went on to highlight the issue of privacy particularly when the complainants objected to the presence of a third party and concluded that there existed areas of improvement to the current guidelines.

IV

CAPO'S MONTHLY STATISTICS

20. ACP SQ (Ag.) reported that a total of 249 complaints were received in September 2008, an increase of 20.3% (+42 cases) when compared with the statistics of the previous month. For the month of October 2008, 247 complaints were received, which was a decrease of 0.8% (-2 cases) when compared with the statistics of the previous month.

21. The number of 'Neglect of Duty' complaints received in September 2008 was 112 cases, an increase of 30.2% (+26 cases) when compared with the statistics of the previous month. For the month of October 2008, the number of 'Neglect of Duty' complaints received was 84 cases, which was a decrease of 25.0% (-28 cases) when compared with the statistics of the previous month.

22. The number of 'Misconduct/Improper Manner & Offensive

Language' complaints received in September 2008 was 73 cases, an increase of 7.4% (+5 cases) when compared with the statistics of the previous month. For the month of October 2008, the number of 'Misconduct/Improper Manner & Offensive Language' complaints received was 101 cases, which was an increase of 38.4% (+28 cases) when compared with the statistics of the previous month.

23. The number of 'Assault' complaints received in September 2008 was 42 cases, an increase of 44.8% (+13 cases) when compared with the statistics of the previous month. For the month of October 2008, the number of 'Assault' complaints received was 31 cases, which was a decrease of 26.2% (-11 cases) when compared with the statistics of the previous month.

24. In the first ten months of 2008, a total of 2,244 complaints were received representing an increase of 6.3% (+133 cases) when compared with 2,111 cases of the same period last year.

25. The total number of 'Neglect of Duty' complaints received in the first ten months of 2008 was 943 cases representing an increase of 8.0% (+70 cases) when compared with 873 cases of the same period last year.

26. The total number of 'Misconduct/Improper Manner & Offensive Language' complaints received in the first ten months of 2008 was 671 cases representing an increase of 17.9% (+102 cases) when compared with 569 cases of the same period last year.

27. The total number of 'Assault' complaints received in the first ten months of 2008 was 348 cases representing a decrease of 8.7% (-33 cases) when compared with 381 cases of the same period last year.

28. ACP SQ (Ag.) commented that while the first ten months saw an increase in the number of complaints, no particular complaint trend was noted.

29. The Chairman noted that there was a significant increase in the number of 'Misconduct / Improper Manner & Offensive Language' and invited CAPO to comment.

30. ACP SQ (Ag.) responded by saying that most of the complaints of 'Misconduct / Improper Manner & Offensive Language' were related to criminal investigations or traffic enforcement actions. He could not ascertain the underlying reasons for the increase at this stage.

31. Dr LUI Ming-wah commented that the reports on the complaints

statistics submitted to the Council were not informative enough in that the statistical information did not contain information such as changes to the size of population and improvement to the general crime situation. As such, the statistics could not be considered in context.

32. ACP SQ (Ag.) replied that annually CAPO would prepare complaints statistics with reference to the police encounters with members of the public and report such data in the CAPO Annual Report. By quoting the figures in 2006 and 2007, he said that in 2006 on average there was one complaint for every 1,811 police/public encounters in regard to 12,457 daily contacts including stop and search, arrest action and traffic enforcement. 2007 saw an improvement of the statistics to one complaint in 1,925 police/public encounters in regard to 13,548 daily encounters. He explained that such comparison could only be conducted on an annual basis due to the resource implication and undertook to continue providing such statistical information to the Council on the same basis.

V

ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING

33. There being no other business, the meeting concluded at 1845 hours.

(Eve CHUNG Wing-man)
Joint Secretary (Ag.)
Complaints and Internal
Investigations Branch

(Brandon CHAU)
Joint Secretary
Independent Police
Complaints Council