

**Meeting of the Independent Police Complaints Council (IPCC)  
with the Complaints & Internal Investigations Branch (C&IIB) held at  
the IPCC Secretariat Office at 1750 hours on Monday, 23 March 2009**

Present : Mr JAT Sew-Tong, SC (Chairman)  
Dr Hon Joseph LEE Kok-long, JP (Vice-chairman)  
Dr Michael TSUI Fuk-sun  
Dr Helena YUEN CHAN Suk-yee  
Dr Lawrence LAM Chi-kit, MH  
Mr Clement TAO Kwok-lau, BBS, JP  
Ms Carmen CHAN Ka-mun, JP  
Mr Eric CHEUNG Tat-ming  
Mr Brandon CHAU, Deputy Secy IPCC (Joint Secretary)  
Mr Michael B. DOWIE, DMS  
Mr WONG Fook-chuen, ACP SQ  
Mr Alan FAN Sik-ming, CSP C&IIB  
Mr J.P. RIBEIRO, SSP CAPO  
Mr SIU Kit-hung, SP CAPO HQ (Joint Secretary)

In Attendance : Mrs Philomena LEUNG, Secy/IPCC  
Ms Cherry CHAN, LA/IPCC  
Mr Eddie WONG, SAS(PS)  
Mr Bernard KAN, SAS(3)  
Miss Moira LAU, AS(PS)1  
Mr WONG Tsan-tim, CIP Team 7 CAPO HKI  
Ms CHUNG Wing-man, CIP CAPO HQ  
Ms SZE Yuk-sim Maggie, SIP T7a HKI  
Mr WONG Kai-man, SIP SUP CAPO  
Ms CHAN Shuk-ming, SIP IPCC C&IIB

Absent with Apologies: Dr the Hon LAM Tai-fai, BBS, JP (Vice-chairman)  
The Hon Abraham SHEK Lai-him, SBS, JP (Vice-chairman)  
Mr YEUNG Yiu-chung, BBS, JP  
Dr TSE Tak-fu, BBS  
Ms Priscilla WONG Pui-sze, JP  
Ms Emily CHEUNG Mui-seung  
Prof Stephen CHEUNG Yan-leung, JP  
Ms Christine FANG Meng-sang, JP  
Mr Eddie NG Hak-kim, JP  
Mr PANG Yiu-kai, SBS, 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 23 January 2009 (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 8 January 2009 to 4 March 2009.

4. CSP C&IIB highlighted a case as reported in item A123 of the checklist. The case involved three officers who failed to comply with the procedures in respect of the handling of detained person's property, contrary to Force Procedures Manual (FPM) 49-22. The complainant was arrested for 'Common Assault' and she lodged a number of complaints against the arresting officers, the Duty Officer and the officers who escorted her to hospital for medical treatment. Amongst her allegations, the complainant alleged that police officers took away the medicine prescribed by the doctor and did not return the medicine to her when she was granted bail. While her allegations were classified as 'Unsubstantiated' and 'No Fault', CAPO investigation revealed that three officers respectively had breached FPM 49-22 regarding the handling of property of detained person. The escorting officer failed to record the seizure of the medicine from the complainant in her police notebook. When the complainant was escorted back to police station, the Duty Officer concerned failed to make an entry in the Detention Record of the Communal Information System (CIS) to the effect that police had extracted the medication from the complainant. When the complainant was granted bail, the Duty Officer who returned the medicine to the

complainant failed to make a record in CIS and failed to invite the complainant to sign on the CIS generated Pol. 39.

5. CSP C&IIB briefed the meeting that the relevant provisions of the Force Procedure Manual clearly stipulated that 'where a situation requires a detained person to be searched and his property seized in a place other than a police station...the officer seizing the property is to record full details of the property in his notebook'. The Duty Officer 'shall extract from a detained person's property any prescribed drugs or other medication found in his lawful possession and to keep these in a separate envelope' and 'the envelope and contents should be entered as a specific item in the Detained Person's Property section of the CIS Detention Record'. 'Before property is returned to an arrested person, the signature of such person is to be verified by the officer handing over the property when the arrested person signs on the CIS generated Pol. 39'.

6. CSP C&IIB said that the issues would be highlighted in the 'Matters of Interest' of the 'CAPO Monthly Report' and 'Tips for Smart Cops'. CAPO officers would also disseminate the information to Formations during Liaison Visits and Complaint Prevention Talks.

### **III CAPO'S MONTHLY STATISTICS**

7. CSP C&IIB reported that a total of 288 complaints were received in January 2009, an increase of 26.9% (+61 cases) when compared with the statistics of the previous month. For the month of February 2009, 302 complaints were received, representing an increase of 4.9% (+14 cases) when compared with the statistics of the previous month.

8. The number of 'Neglect of Duty' complaints received in January 2009 was 108 cases, an increase of 9.1% (+9 cases) when compared with the statistics of the previous month. For the month of February 2009, the number of 'Neglect of Duty' complaints received was 147 cases, representing an increase of 36.1% (+39 cases) when compared with the statistics of the previous month.

9. The number of 'Misconduct/Improper Manner & Offensive Language' complaints received in January 2009 was 104 cases, which was an increase of 46.5% (+33 cases) when compared with the statistics of the previous month. For the month of February 2009, the number of 'Misconduct/Improper Manner & Offensive Language' complaints received was 98 cases, which was a decrease of 5.8% (-6 cases) when compared with the statistics of the previous month.

10. The number of 'Assault' complaints received in January 2009 was

41 cases, representing an increase of 46.4% (+13 cases) when compared with the statistics of the previous month. For the month of February 2009, the number of 'Assault' complaints received was 31 cases, which was a decrease of 24.4% (-10 cases) when compared with the statistics of the previous month.

11. For the first two months of 2009, a total of 590 complaints were received. It represented an increase of 36.3% (+154 cases) when compared with 436 cases of the same period in 2008.

12. The total number of 'Neglect of Duty' complaints received in the first two months of 2009 was 255 cases. It represented an increase of 47.4% (+82 cases) when compared with 173 cases of the same period in 2008.

13. The total number of 'Misconduct/Improper Manner & Offensive Language' complaints received in the first two months of 2009 was 202 cases. It represented an increase of 59.1% (+75 cases) when compared with 127 cases of the same period in 2008.

14. The total number of 'Assault' complaints received in the first two months of 2009 was 72 cases. It represents a decrease of 1.4% (-1 case) when compared with 74 cases of the same period in 2008.

15. CSP C&IIB commented the number of complaints recorded in the first two months of 2009 was higher than the same period last year. However, he commented that it was too early to conclude that the increase represented a general rising trend in 2009 since number of complaints did vary from time to time. For instance, the number of annual complaints in the past ten years varied from 3,800 at the higher end to 2,542 at the lower end. Nevertheless, CAPO would analyze the complaints trend with a view to ascertaining the causes of the complaints and would take corresponding actions to prevent avoidable complaints.

16. The Chairman asked whether a particular district saw an unusual increase.

17. CSP C&IIB replied that all regions and districts saw a similar increase.

18. Dr Lawrence LAM asked whether CAPO would inform the Council of its findings if the reasons for the increase could be ascertained.

19. CSP C&IIB replied that CAPO would notify the Council if CAPO could ascertain the causes of increase.

#### IV

#### **IPCC STATISTICAL REPORT 2008**

20. Secy/IPCC reported that in 2008, the Council endorsed the investigation results in a total of 2,572 complaint cases, an increase of 63 cases when compared with 2,509 cases in 2007. The cases involved 4,523 allegations, among which 1,159 were fully investigated. Of the fully investigated allegations, 57 were classified as ‘Substantiated’, 66 as ‘Substantiated Other Than Reported’, and 5 as ‘Not Fully Substantiated’. The substantiation rate in respect of the fully investigated allegations was 11%.

21. The three major areas of complaints endorsed in 2008, in descending order, were ‘Neglect of Duty’ (1,675 or 37%), ‘Misconduct/ Improper Manner/ Offensive Language’ (1,520 or 33.6%) and ‘Assault’ (538 or 11.9%).

22. In connection with the cases endorsed in 2008, a total of 1,991 queries/suggestions were raised by the Council and 1,604 (80.6%) of those queries/suggestions were accepted by CAPO and 387 (19.4%) were met with satisfactory explanations by CAPO.

23. Secy/IPCC highlighted that 133 classifications were changed after queries/suggestions by IPCC including 14 cases reclassified as ‘Substantiated’, two cases reclassified from ‘Unsubstantiated’ to ‘Not Fully Substantiated’ and 12 counts of ‘Substantiated Other Than Reported’ registered. In 2008, IPCC Observers conducted 548 observations including 51 surprise visits, an increase from 263 in 2007.

24. Dr Hon Joseph LEE remarked that the report indicated an increase in ‘Neglect of Duty’ and ‘Unnecessary Use of Authority’. He suggested police to ascertain the reasons behind the increase and come up with measures to reduce such complaints.

25. CSP C&IIB assured the meeting that CAPO and the Force had been constantly monitoring the complaints trend, including the allegations of ‘Neglect of Duty’ and ‘Unnecessary Use of Authority’. Considerable efforts were made with a view to reducing preventable complaints and the complaint trend over the past few years had been fairly stable. In 2008, there were 2,714 complaints involving over 4,000 allegations. Taking into consideration the fact that police had on average over 13,800 encounters with members of the public each day during the same period, it was evident that police had made tremendous efforts in reducing avoidable complaints.

## V

### CASE FOR DISCUSSION

26. Secy/IPCC briefed the meeting on the case for discussion which related to a 11-day delay in reporting a driver 'driving whilst disqualified'. The complainant (COM) was summonsed for 'Careless Driving' by a Police Sergeant (Sergeant A) who was attached to a Regional Traffic Formation. COM disputed the ticket and Sergeant A was called to testify for the prosecution in court on 23 September. COM was convicted of the offence on the same day, was fined \$2,000 and disqualified from driving for 15 days with immediate effect by the Magistrate.

27. While leaving the court that day, Sergeant A allegedly saw COM driving his own saloon car leaving the carpark of the Magistracy. The saloon car was driven at a speed of about 5-10 kilometres per hour towards Sergeant A who claimed that he clearly recognized the driver as COM at a distance of about 3 metres, and he confirmed that COM was the only person on board the vehicle. Sergeant A was on plainclothes duty that day and was off-duty when he witnessed the alleged incident. He did not intercept COM's vehicle or report the incident to his supervisory officers at once albeit he considered 'driving whilst disqualified' was a rather serious traffic offence. Instead, he noted down the details of the incident on a piece of paper at the scene.

28. After that, Sergeant A was on leave for 6 consecutive days and resumed duty on 30 September, but he did not report the incident until 4 October by forwarding a statement to the Traffic Investigation Group. Sergeant A stated that he was busily engaged in work upon resumption of duty and was unable to report the incident then.

29. COM was later arrested by the Police and charged with the offence of 'driving whilst disqualified' and 'using a vehicle without third party insurance'. COM was acquitted of both charges after trial. The Magistrate commented that, while Sergeant A was not a dishonest witness, he found it very strange for Sergeant A to handle COM's case in such a manner, and considered Sergeant A's explanation of the incident not convincing.

30. After the trial, COM lodged a complaint with CAPO alleging that:

- (i) Sergeant A failed to stop COM at the scene when he spotted COM 'driving whilst disqualified' [Allegation (a) – 'Neglect of Duty'];
- (ii) As the said offence was of serious nature, Sergeant A should have called for assistance to stop COM and reported it to his supervisory officers. He did

not report the incident to the Traffic Investigation Unit until 4 October (i.e. 11 days after the alleged incident) [Allegation (b) – ‘Neglect of Duty’]; and

(iii) Sergeant A fabricated the evidence and COM was puzzled by Sergeant A’s real intention of doing this [Allegation (c) – ‘Fabrication of Evidence’].

31. After investigation, CAPO classified allegation (a) as ‘No Fault’ because Sergeant A was acting in accordance with the Force Procedures Manual. Allegations (b) and (c) were classified as ‘Unsubstantiated’ in the absence of concrete evidence to prove or disprove the allegations.

32. IPCC considered that Sergeant A, as an experienced traffic police officer, had the duty to assist in collecting the necessary evidence in support of the offence by either immediately reporting the matter to his supervisors in the Traffic formation or calling the Police Console for assistance to intercept COM who was allegedly still on the road then. Therefore, IPCC could not agree to the findings of allegation (b) – ‘Neglect of Duty’.

32. Having re-examined the case, CAPO concurred with the Council’s observation and agreed to re-classify allegation (b) – ‘Neglect of Duty’ from ‘Unsubstantiated’ to ‘Substantiated’. In this connection, Sergeant A would be advised without entry to his DRF record to guard against recurrence in future. CAPO also requested the Traffic Headquarters to re-examine its existing policy on summons applications and to see whether there was a need to tighten up the requirement on the reporting period for similar cases. IPCC finally endorsed the case.

33. CSP C&IIB stated that grounds for the classification had been spelt out in the investigation report and he had no further comments.

35. Mr Eric CHEUNG noted that CAPO would request Traffic Headquarters to consider whether it would be necessary to specify the reporting period. He commented that ‘as soon as practicable’ in the existing guidelines appeared to be appropriate and a change might not be necessary. He considered that the officer concerned had misunderstood the requirement and he suggested reminding officers that ‘as soon as practicable’ should be interpreted literally.

36. CSP C&IIB said that the comments would be referred to the relevant formation for consideration.

37. The Chairman welcomed CAPO's response.

**VI**

**ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING**

38. There being no other business, the meeting concluded at 1850 hours.

( SIU Kit-hung )  
Joint Secretary  
Complaints and Internal  
Investigations Branch

( Brandon CHAU )  
Joint Secretary  
Independent Police  
Complaints Council