

**Meeting of the Independent Police Complaints Council (IPCC)
with the Complaints & Internal Investigations Branch (C&IIB) held at
the IPCC Secretariat Office at 1540 hours on Thursday, 1 September 2011**

Present :

Mr JAT Sew-Tong, SC	(Chairman)
Dr Hon Joseph LEE Kok-long, SBS, JP	(Vice-chairman)
Dr the Hon LAM Tai-fai, BBS, JP	(Vice-chairman)
Dr Lawrence LAM Chi-kit, BBS, MH	
Ms Emily CHEUNG Mui-seung	
Mr Eric CHEUNG Tat-ming	
Prof Stephen CHEUNG Yan-leung, BBS, JP	
Ms Christine FANG Meng-sang, BBS, JP	
Mr Lawrence MA Yan-kyok	
Mr Simon IP Shing-hing, JP	
Ms Noeline LAU Yuk-kuen	
Mr Kenneth LEUNG Kai-cheong	
Dr Carol MA Hok-ka	
Ms Sandy WONG Hang-yee	
Dr Helena WONG Pik-wan	
Ms Mary WONG Tak-lan	
Mr Adrian YIP Chun-to, MH, JP	
Miss Patricia WOO, ASG IPCC	(Joint Secretary)
Mr TANG How-kong, DMS	
Mr WONG Fook-chuen, ACP SQ	
Mr Duncan McCosh, CSP C&IIB	
Mr SIU Kit-hung, SSP CAPO	
Ms YIP Yuk-ping, SP CAPO HQ	(Joint Secretary)

In Attendance :

- Mr Ricky CHU, SG
- Mr Brandon CHAU, DSG
- Ms Cherry CHAN, LA
- Mr Eddie WONG, SM(SD)
- Ms Celia LEE, M(P&CS)1
- Ms Celia LAW, M(P&CS)2
- Ms LEE Nga-lai, SP CAPO K
- Mr TSE Ming-yeung, SP CAPO HKI
- Mr CHENG Wai-kin, CIP CAPO HQ
- Mr SOO Wan-lok, SIP IPCC C&IIB
- Mr WONG Kai-man, SIP CAPO HKI

Mr AU Yeung-hoi, SIP CAPO HKI

Absent with Apologies: The Hon Abraham SHEK Lai-him, SBS, JP (Vice-chairman)
Dr Helena YUEN CHAN Suk-ye
Mr Eddie NG Hak-kim, SBS, JP
Dr CHAN Pui-kwong
Mr Albert Jinghan CHENG, GBS, MHKIE, JP
Mr David FONG Man-hung, BBS, JP
Ms Belinda TANG Lai-fong

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 9 June 2011 (Open Part)

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

II MATTERS ARISING

3. The Chairman referred the meeting to paragraphs 6 to 21 of the minutes of the last meeting which outlined that Police had agreed to consider members' request for further statistics on crime detected with arrests resulting from 'stop and search' operations ("S/S") as well as the profiling of persons being stopped and searched. He quoted members' questions about the training on S/S from a complaint prevention perspective and the frequency of the relevant training provided to frontline officers. He requested CSP C&IIB to update the meeting in this regard.

4. CSP C&IIB noted that the subject had been covered by the discussions following a Police presentation on S/S at the Closed Part of this meeting and it had been agreed to have a working level meeting to take the issue forward.

III PROPOSED HANDLING PROTOCOL FOR EXPRESSION OF DISSATISFACTION (EOD)

5. The Chairman stated that both CAPO and IPCC were working towards enhancing the service quality of the Force and a Joint Working Group had been formed to review the handling protocols for minor complaints. He told the meeting that the Joint Working Group had in the past months actively looked into ways to enhance the effectiveness of handling minor complaints by introducing different levels of approach and formulating a mechanism for handling Expressions of Dissatisfaction (EOD). He invited the Chairperson (IPCC side) of the Joint Working Group, Ms Christine FANG, and CSP C&IIB to brief the meeting on the background of the proposed mechanism and the proposed handling protocol respectively.

6. Ms Christine FANG briefed the meeting that the Joint Working Group had been working since May 2010 to discuss areas for improvement in the handling of complaints to resolve the large number of very minor complaints received. Making reference to some overseas jurisdictions, the Working Group introduced a mechanism where a member of the public could have an option to make an EOD about service quality, police procedures, an individual police officer's conduct, or any police conduct that was not directed at a specific complainee. This could offer an avenue for addressing certain minor complaints without the need to go through a full investigation process.

7. CSP C&IIB referred to CAPO's draft handling protocol for EOD, which had been forwarded to members earlier for consideration. He outlined the details on how the proposed mechanism, which was based on a framework developed at previous Working Group meetings, would work in practice. The option of EOD would be an alternative to going through the formal complaint process. The outcome would be that the Formation Commander of the concerned police officer(s) would be apprised of the matter and take whatever action he/she deemed necessary from a service improvement perspective. By adopting this mechanism, the informant would be advised of what to expect and that he/she still retained the right to lodge a formal complaint even after the EOD process had started.

8. CSP C&IIB stated that if the Council agreed to the proposed protocol, CAPO would (a) write up more detailed working procedures; (b) design and print, as authorized by the Working Group, an introductory pamphlet for the public; (c) train police officers on how the mechanism would work and what was expected of them. CAPO proposed a pilot scheme of six months. The effectiveness of the mechanism would be reviewed at the end of the trial period and would be fine-tuned as necessary. CAPO would also retain statistics on EOD cases and forwarded these to IPCC so that its oversight responsibility could be fulfilled. CSP C&IIB concluded that the new system would allow a member of the public, who did not want to lodge a formal complaint, to have a speedy redress mechanism to address his/her grievance. He re-emphasized that this would not remove an individual's right to lodge a formal complaint at any time.

9. The Chairman stressed that particular care must be taken, so that the public would not perceive the new system as a barrier to deter members of the public from making complaints. When implementing the scheme, a strong message should be delivered that the mechanism was meant to introduce a more effective way for members of the public, who wished to express their dissatisfaction, to have their grievances addressed without the need to launch a full investigation. He thanked the Working Group for the joint efforts put into this initiative and hoped for an early implementation of the scheme.

10. Mr Eric CHEUNG echoed the Chairman's statement and supplemented that it was the Working Group's consensus that the enhanced mechanism must not deprive a member of the public of his/her existing right to lodge a complaint. Instead, it was designed to provide an additional option as some members of the public might not want to go through the complaint procedure for any grievance they held. The option would allow them to express their dissatisfaction or apprise a senior police officer of an issue, so that the senior officer could clear up a misunderstanding, or resolve the matter and identify room for improvement in service delivery or professional standards. The Working Group's proposal was based on previous case studies which suggested that some complainants had chosen to withdraw or not to pursue the complaint because they had actually wished to have their dissatisfaction or grievances addressed without going through the formal complaint process. Mr Eric CHEUNG told the meeting that the Council agreed the framework of handling protocols proposed by CAPO and requested CAPO to draft the said introductory pamphlet for the Working Group's deliberations. He said that the Working Group should discuss how IPCC could monitor the measures taken or to be taken by the Police where an area for improvement or deficiency in police practice or procedure was identified out of this process.

11. The Chairman asked whether there was any concrete timetable for the trial run, given the remaining issues to be sorted out and the preparation work to be done.

12. CSP C&IIB replied that CAPO looked towards the first quarter of 2012 for the trial run.

13. Prof Stephen CHEUNG welcomed the proposed speedy redress system. He said the pamphlet should make it clear that the new system was not a barrier to complaints and that the Police would treat a grievance seriously, whether the aggrieved person opted to lodge a formal complaint or to have the grievance dealt with by the new system, and that the senior police officer resolving the grievance would seriously consider any suggestion made if an area for improvement was identified.

14. CSP C&IIB fully endorsed Prof Stephen CHEUNG's comment. He assured the meeting that the complaint mechanism was exceptionally important to the Force and taken very seriously as it offers a great opportunity for Police to take forward service quality measures.

15. The Chairman thanked the Working Group once again for all the hard work it had done so far.

(IV) CAPO's MONTHLY STATISTICS

16. The Chairman invited CAPO to report on the complaint statistics.

17. CSP C&IIB presented the complaints statistics for the first seven months of 2011 as a comparison against the first seven months of 2010. He described that very positive figures were seen once again in terms of the number of reportable complaints made over the seven months' period with a significant drop from 2,180 in 2010 down to 1,603 in 2011. He said the complaint figures remained at a consistent band at the moment and that CAPO was looking to reduce the number of avoidable complaints.

18. The Chairman remarked that the complaint figures for 2011 had gone back to the levels of 2008 and the first half of 2009 following an increase in the number of complaints received in the preceding two years. He hoped this trend for the complaint figures would continue.

(V) CAPO's CRIMINAL AND DISCIPLINARY CHECKLIST

19. The Chairman asked whether there was anything special to brief the meeting in respect of the Criminal and Disciplinary Checklist, which had been tabled.

20. CSP C&IIB replied that he had nothing particular to highlight.

(VI) **BRIEFING ON THE NUMBER AND NATURE OF COMPLAINTS RECEIVED IN RELATION TO THE VICE PREMIER'S VISIT, AND THE PROGRESS AND SCOPE OF INVESTIGATION**

21. The Chairman referred to the controversy about the security arrangements for Vice-Premier Li Keqiang's recent visit to Hong Kong and invited CSP C&IIB to conduct a briefing on the number and nature of complaints received in relation to the visit, as well as the scope and progress of investigation into the related complaints.

22. CSP C&IIB briefed the meeting that in terms of the described event. CAPO had received 10 reportable complaints as of the day of the Joint Meeting. Four cases were lodged by participants taking part in public order events in Central District and Wanchai District on the days involved, and allegations arising from those complaints related to "Unnecessary Use of Authority", "Assault" and "Neglect of Duty". Another four cases were lodged by people simply passing by the events who were dissatisfied with the policing of these public order activities or the security arrangements; of which two related to the traffic arrangements that had been implemented by police, while the other two related to the mannerism of officers at scene. The allegations involved were "Neglect of Duty" and "Rudeness". The ninth case was lodged by a man who had been removed by a plainclothes officer from an area in the vicinity of Laguna City, and he had made an allegation of Assault. The tenth case again arose at Laguna City, and was lodged by two reporters who alleged "Unnecessary Use of Authority" surrounding their inability to take photos to cover the news, "Neglect of Duty" as they felt officers had failed to declare their police identities and some "Impoliteness" as a result of what they alleged officers had said.

23. CSP C&IIB further reported that in relation to the event there were also two "Notifiable Complaints". These included a case, again arising from Laguna City, which basically revealed the same set of facts being lodged by five different people but all of whom were not directly affected by the event. Their allegations were "Unnecessary Use of Authority" against police officers. Another case arose from the Hong Kong University (HKU) incident and saw the same facts being raised by seven different people, none of whom were directly affected by what took

place on the day. They made allegations of “Unnecessary Use of Authority”.

24. At a member’s request prior to the meeting and for the benefit of the meeting, CSP C&IIB gave an explanation about how the complaint mechanism worked. Briefly, under the Independent Police Complaints Council Ordinance (IPCCO), complaints received by the Police will be categorized as a reportable complaint under certain circumstances, including, *inter alia*, (i) if the complaint relates to the conduct of a Force member while he is on duty or when off duty but has declared his identity as a police officer; (ii) the complaint is not vexatious or frivolous and is made in good faith, and (iii) it is made by a complainant who has properly identified himself and is directly affected by the police conduct. The investigation of a reportable complaint will be monitored and reviewed by IPCC. IPCC will directly monitor CAPO's investigation through its Observers Scheme under which IPCC Observers and Council Members themselves can undertake scheduled or surprise observation of the interviews and collection of evidence conducted by Police. Any complaint received that is not a reportable complaint will be categorized as a notifiable complaint. 'Notifiable complaints' are outside the purview of full IPCC oversight, but CAPO is required to submit a summary of such complaints to IPCC in order to allow the Council to see the gist of what the complaint is about and to consider whether it is worthy of re-categorizing to a reportable complaint. CAPO will have notifiable complaints dealt with under the same investigation mechanism.

25. Mr Eric CHEUNG began by making a disclosure of his interest in relation to the Vice-Premier’s visit, as he was a teaching staff member of HKU. He stated that he had consciously made his position clear to the University that he would not be giving legal advice to students involved in the said incident. He added that to ensure that he would be able to fulfill his monitoring role as an IPCC Member in an impartial manner, he had refrained from making comments on the matter publicly. He thus considered that merely his teaching role in HKU should not affect his monitoring of the related complaints and asked whether there was any objection from the floor for him to take part in the ensuing discussion.

26. The Chairman pointed out that as an independent and impartial body, the Council should not prejudge based on various versions given openly but should ensure a fair and impartial investigation into the complaints before arriving at a conclusion. Based on Mr CHEUNG’s description of his conscious avoidance of conflict of interest, he did not perceive any problem for Mr CHEUNG to participate in the ensuing discussion in the capacity of IPCC member. The meeting unanimously agreed to the Chairman’s view.

27. There being no objection, Mr Eric CHEUNG commented that the Council's role was to ensure that complaint investigations were conducted in a thorough, comprehensive and fair manner and therefore, at this stage, should not discuss at the meeting issues such as whether police actions were right or wrong or the legal basis for police actions. Focusing on the complaint investigation, he raised his concern over the interplay of parallel investigations in progress, as remarks made by senior police officers seemed to suggest that they have conducted an internal enquiry into the matter and interviewed frontline officers involved while CAPO officers were conducting complaint investigations. He believed that IPCC was not given prior notification, in accordance with the notification requirement under the IPCCO, for the said internal enquiry by officers other than CAPO officers, which might include interviews or submission of reports in relation to the event. He wished to explore how the Police are to handle such interplay of parallel investigations; for example, whether CAPO would include the materials obtained during internal inquiry into the complaint investigation and/or whether IPCC Observers and Council Members themselves could undertake observation of such interviews/collection of evidence in an internal inquiry. Secondly, he was concerned that some senior police officers, including the Commissioner of Police, had taken a stance on the controversial issue in public and before a Legislative Council panel. He queried how CAPO would instill public confidence in the police complaint system by showing that CAPO would be open minded and its findings from complaint investigations would not be prejudged by the Commissioner's expressed stance. Thirdly, he asked whether CAPO would accord top priority to the related complaints, which had attracted wide public interest, and beef up manpower to expedite complaint investigation and provide investigation reports to IPCC quickly. Lastly, he noted that a witness in the investigation of a complaint had the option of giving a written statement or having a Video Recorded Interviews (VRI), which required the consent of the person being interviewed. He asked whether CAPO was prepared to encourage use of VRI especially for the investigation of the related complaints. By viewing VRI which is a direct and complete visual and audio record of the interview, the Council would be better-informed in considering investigation reports. VRIs are also very useful references when the Council conducts interview under the IPCCO.

28. The Chairman updated the meeting that CAPO had promptly taken a series of actions in the investigation of the related complaints and that the Council had been given prior notification of interviews with complainants and observation was conducted accordingly. He announced that the Serious Complaints Committee under the IPCC, which consisted of 11 Council Members and was empowered to closely monitor reportable complaints of a serious nature or involving wide

public interest, would follow up on all 10 reportable complaints received at this point in time. He supplemented that CAPO was required to provide monthly progress reports on the cases to this Committee.

29. CSP C&IIB replied to Mr Eric CHEUNG's questions in reverse order. He told the meeting that a VRI was conducted as a matter of choice for interviewees. The mandatory or preferred use of VRI for a particular case would be a policy issue for CAPO to look at. He emphasised that a proper record would be made of all CAPO enquiries. He further informed the meeting that given the complexity of the complaints currently being discussed and the public interest attached, CAPO had assigned a specific team to look at all related complaints collectively and would work in cooperation with the Serious Complaints Committee.

30. In response to the comments made by Mr Eric CHEUNG about pre-judgement before conclusion of complaint investigation, CSP C&IIB stressed that in his position as head of C&IIB he was responsible for the complaint mechanism and that he and his officers were not in any way involved in the incidents which had led to the complaints being made. It was fully appreciated that the Police Force should not be seen to be pre-judging and should not prejudge the outcome of any issue still under enquiry. He said that it was necessary on some occasions, certainly during large scale public events, for the Police to come out and explain their position to the society at large and this would naturally require some information gathering. However he agreed wholeheartedly all police officers should avoid pre-judging issues under complaint at any time.

31. CSP C&IIB stated that following each major operation, it was necessary for supervisory officers to conduct a wash-up or immediate review for administrative or operational purpose, rather than from a complaint perspective. He told the meeting that supervisory officers would conduct debriefings with their subordinate officers in order to obtain a clear picture of what had taken place during an event in order to learn from the experience and identify areas for improvement whether a complaint had been lodged or not. He emphasized that debriefings or wash-ups had been common practice in the Force for many years. It was not an investigation or collection of evidence and thus should not be seen as part of a complaint investigation. He however indicated that if there was any material to come out from a wash-up that was relevant to CAPO investigation it would be introduced as material for the investigation into the complaint.

32. Mr Eric CHEUNG said that his original question stemmed from the media coverage on a special meeting at the Legislative Council Panel on Security held on 29 August 2011 in which the Commissioner of

Police gave an account of the police security arrangements for the Vice Premier's visit. He said that explanations offered by the Commissioner at the special meeting appeared to be based on the information obtained from some prior internal investigation, which could involve senior police officers asking frontline officers for their versions or even interviewing them. He sought to clarify CAPO's stance on such internal investigations, if there was any, which had been conducted in parallel with complaint investigations. He also sought to confirm whether there had been an internal investigation, in addition to the wash up, in relation to the instant case.

33. CSP C&IIB emphasized the word "clarification" and repeated that the senior management of Police would need to find out exactly what had happened from a police perspective so that they could tender information to all concerned parties including the public, plus outline the Police stance. He clarified that this was not an investigation. Complaint investigation was left to CAPO.

34. DMS confirmed that there was no parallel investigation within the Force in relation to the incident, other than complaint investigations by CAPO. He said that when the Commissioner was invited to give an account of police actions at Legislative Council meetings, it was only natural that he sought the relevant information prior to the meeting. DMS said that there had been no formal investigation but definitely some kind of information gathering from officers involved for briefing the Commissioner.

35. The Chairman remarked that it was of paramount importance from IPCC's perspective to ensure that investigations into reportable complaints were fair and impartial and the finding was not perceived by the public to be prejudged before conclusion of the investigation. He added that the public should see that all relevant evidence was carefully examined and finding of facts was based on the evidence available if public confidence was to be assured.

36. DMS assured all that CAPO would conduct complaint investigations thoroughly and impartially and their findings would be based on the evidence from their investigations, rather than any pre-judgment. He pledged that he would direct CAPO to include all materials of relevance into its investigation so that IPCC could have a comprehensive knowledge of all materials relating to the complaints.

37. The Chairman welcomed the assurance given by DMS to the public. He then followed up Mr Eric CHEUNG's request for early submission of the relevant investigation reports and asked for an estimation of the time required for the complaint investigation.

38. CSP C&IIB replied that the time required would depend on a number of factors, including the complainants themselves, but he could assure the meeting that CAPO would expedite the investigations and submit the investigation reports as soon as practicable. He supplemented that the said specific team consisted of four dedicated officers and was headed by an officer who was probably the most experienced in his rank in CAPO.

39. Ms Christine FANG requested the meeting be briefed on the reasons for categorizing some complaints as notifiable complaints and more about the nature of the complaints. She asked whether the Council would be apprised of the information alternatively by a special list, rather than through the monthly list of notifiable complaints, if it was impractical for such a briefing at the meeting.

40. CSP C&IIB confirmed that the said complaints were categorized as notifiable complaints because they were not made by a person directly affected and thus fell outside the criteria for a reportable complaint. He said these complaints would be investigated by CAPO and a notifiable complaint list with requisite detail would be submitted separately for IPCC's oversight on the categorization.

41. Dr Helena WONG queried the appropriateness for the Commissioner of Police to pass judgment on the incidents at the special meeting in Legislative Council before commencement of CAPO's investigation. On the other hand, she referred to a Facebook campaign "One Man One Mail" appealing to citizens to lodge complaints against the Commissioner for a possible breach of S. 18(1) of the Legislative Council (Powers and Privileges) Ordinance, Cap. 382, by giving a false answer during the special LegCo meeting, and asked how CAPO would handle the complaints.

42. CSP C&IIB replied that CAPO would encourage any person who was able to provide information in relation to the complaints to come forward because any complaints made in good faith would be welcomed. He assured the members that there was neither pressure nor influence on him or his officers and CAPO would investigate the complaints thoroughly and impartially, and as professionally as possible. He said that his job was to oversee the complaint mechanism and he was answerable to the Council, adding that the Police had a statutory duty to work with IPCC oversight. At this point, the Chairman supplemented that the Council monitored the handling and investigation of complaints on behalf of the general public and represented public interest.

43. Ms Christine FANG noted that complaints arising from the said Facebook campaign would be categorized as notifiable complaints as they were not made by a person directly affected and thus fell outside the

purview of IPCC. CSP C&IIB replied that CAPO had to work within the framework and spirit of the IPCCO and the complaints were notifiable complaints under the Ordinance. However, these complaints would be investigated in a similarly thorough and impartial manner by CAPO officers.

44. The Chairman understood that CAPO had no statutory duty to submit investigation reports on notifiable complaints. He explored whether CAPO would seriously consider the Council's request for detailed information relating to those notifiable complaints in due course. CSP C&IIB replied in the affirmative.

45. Dr Hon Joseph LEE referred to the nature of complaints arising from the incident and requested that CAPO should apprise the Council of any recommendations made on the Police's training needs or service improvement to avoid recurrence of similar incidents and report on any action taken or to be taken in respect of those recommendations in IPCC/CAPO discussion forums, such as working level meetings.

46. CSP C&IIB responded that he fully respected the authority which the Council has under section 8 of the IPCCO, for example, to look for areas that could lead to reportable complaints. He would take Dr Hon Joseph LEE's point on board. He remarked that CAPO and IPCC had been working together all along in partnership to seek improvements.

47. Dr Helena WONG inquired whether there was any code of practice for protection of Internationally Protected Persons or Chinese State Leaders, which was different from the code of practice for police general duties.

48. DMS pointed out that the Commissioner of Police had given an account of Police actions on the security arrangements during Vice Premier LI's visit at a LegCo special meeting and it would not be appropriate to discuss details of the cases in this open forum, prior to the conclusion of complaint investigations. He suggested the meeting focus its discussion on monitoring the investigation of the complaints as per the statutory functions of IPCC and CAPO. He noted that CAPO was still unable to obtain the facts from some complainants though a lot had been said in the media. For fairness to all parties involved, he called on anyone who was able to assist CAPO's investigation to provide formal statements so that CAPO's special team could expedite its investigation in a thorough and fair manner.

49. The Chairman echoed DMS's remarks and also made an appeal to any passers-by who witnessed the incidents, apart from persons directly affected, to come forth. He urged the public to have confidence

in and respect the existing police complaint system which provided for IPCC to perform its statutory functions.

50. Mr Lawrence MA opined that a rather one-sided story was being told in the media and agitation against police actions ensued despite the Commissioner of Police's explanations. He opined that members of the public wanted to have a complete picture and asked whether CAPO would present all the facts to the public by releasing the investigation report including the version of officers concerned, subject to their consent, so that the public could understand the necessity or justification for a particular police action.

51. CSP C&IIB noted Mr Lawrence MA's suggestion had some merit but said that the Force must consider how it would be perceived if messages of this nature are to be put out. The Chairman advocated that it would be beneficial for both the Police and the general public to have CAPO's investigation report released to the public because this would enhance transparency of the system and credibility of the Police.

52. Mr Kenneth LEUNG asked about the concrete procedures CAPO would adopt to facilitate complainants to identify complainees, noting that the latter were unidentified in some cases.

53. CSP C&IIB replied that CAPO always strives to identify complainees, based on the circumstances and descriptions provided by not just the complainants but other witnesses as well, adding that the onus to identify the complainee was on CAPO. He told the meeting that depending on the severity of the case, an identification parade could be held for serious allegations. He remarked that CAPO had always enjoyed reasonable success in identifying complainees.

54. DMS assured all that CAPO would make its best endeavour to identify complainees. He refuted any negative assumption and pledged that he would direct CAPO to identify any officers who should be held accountable.

55. Prof Stephen CHEUNG asked whether there existed a manual for protection of Internationally Protected Persons and whether CAPO would consider disclosing the relevant information to the Council. DMS admitted that even he was not aware whether such a manual existed and considered there was little relevance to discuss the issue further in the meeting.

56. Dr Helena WONG asked whether the Police worked in cooperation with the Mainland's Public Security Bureau (PSB) or under the supervision of them when it came to protecting China's State Leaders visiting Hong Kong.

57. The Chairman commented that issue fell outside the purview of the IPCC or CAPO and asked if CAPO would make a response.

58. DMS echoed the Chairman's comments but would like to clarify that no agency other than local law enforcement agencies had jurisdiction to enforce the law in Hong Kong. The Hong Kong Police is the sole law enforcement agency to perform public security duties. He said that bodyguards could only provide close protection to Internationally Protected Persons but were not to interfere with the Police or people of Hong Kong.

59. Mr Eric CHEUNG recognized CAPO's efforts in identifying complainers, based on his experience in vetting complaint investigations. He hoped that the Force management would provide sufficient manpower to reinforce the four-man special team if necessary to ensure the speedy investigation of the complaints. Meanwhile, he suggested that anticipation of civil proceedings should not prevent the complaint investigations from proceeding in the instant case unless there were other overriding factors for adopting the Sub-Judice procedure to suspend the investigation. He would like to see that complaint investigations completed expeditiously and the investigation report promptly submitted to the Council.

60. DMS undertook to consider providing CAPO with additional resources if necessary to reinforce the special team, the current manpower for which was in fact drawn from formations outside CAPO.

61. Mr Lawrence MA asked whether national security information would be disclosed in CAPO's investigation report if the information could justify police actions.

62. DMS said that the disclosure or non-disclosure of information in all cases would be bound by established practice.

63. Ms Christine FANG proposed that rather than merely looking at whether an individual frontline officer was responsible for the conduct, CAPO should examine whether the conduct was due to any misconceived judgement on the part of the individual officer or the officer was just obeying instructions or abiding by police procedures.

64. CSP C&IIB stated that blind obedience was not accepted by CAPO and each officer had to justify his or her own actions. He elaborated that in terms of police procedures, CAPO would examine whether officers concerned were put in a disadvantageous position because of the procedure.

65. The Chairman reiterated members' concerns raised in the meeting. He stressed that IPCC was independent and would discharge its functions without prejudging the facts to ensure that the complaints were investigated thoroughly, impartially and expeditiously. He was confident that lessons would be learned from the incident and that it would be for the good of Hong Kong as a whole.

(VII) ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING

66. There being no other business, the meeting was concluded at 1715 hours.

(YIP Yuk-ping)
Joint Secretary
Complaints and Internal
Investigations Branch

(Patricia WOO)
Joint Secretary
Independent Police
Complaints Council