

RESTRICTED

Meeting of the Independent Police Complaints Council (IPCC) with the Complaints & Internal Investigations Branch (C&IIB) (Open Part) held at the IPCC Secretariat Office at 1655 hours on Thursday, 31 January 2013

Present :

Mr JAT Sew-Tong, SC, JP	(Chairman)
Dr Hon LAM Tai-fai, SBS, JP	(Vice-chairman)
The Hon Abraham SHEK Lai-him, SBS, JP	(Vice-chairman)
The Hon CHAN Kin-por, BBS, JP	(Vice-chairman)
Mr Eric CHEUNG Tat-ming	
Ms Christine FANG Meng-sang, BBS, JP	
Dr CHAN Pui-kwong	
Ir Albert CHENG Jinghan, GBS, FHKIE, JP	
Mr Lawrence MA Yan-kwok	
Mr Simon IP Shing-hing, JP	
Ms Noeline LAU Yuk-kuen	
Dr Carol MA Hok-ka	
Miss Mary WONG Tak-lan	
Mr Adrian YIP Chun-to, BBS, MH, JP	
Mr Edwin CHENG Shing-lung	
Mr Gerard CHUNG Wai-hung	
Mr Clement TAO Kwok-lau, BBS, JP	
Mr Arthur LUK Yee-shun, BBS, SC	
Dr Eugene CHAN Kin-keung, JP	
Ir Dr Vincent Simon HO	
Miss Patricia WOO, ASG IPCC	(Joint Secretary)
Mr TANG How-kong, DMS	
Mr P. R. Morgan, ACP SQ	
Mr D.S. McCosh, CSP C&IIB	
Ms LAM Man-sai, CSP C&IIB (Des)	
Mr SIU Kit-hung, SSP CAPO	
Mr WONG Chui-hoi, SP CAPO HQ	(Joint Secretary)

In Attendance : Mr Ricky CHU, SG
Mr Daniel MUI, DSG
Ms Cherry CHAN, LA
Mr Henry SO, SVO
Ms Regina LAU, SVO
Mr TONG Chi-chung, SP CAPO NT
Mr WONG Kwok-kit, SP CAPO K
Mr. KWAN Chung-yin, SP CAPO HKI (Ag.)
Mr CHENG Wai-kin, CIP CAPO HQ (1)
Mr WONG Wilfred, CIP CAPO HQ (2)
Mr LAM Chi-ping, CIP Team 1 CAPO K
Mr CHAN Kwok-ho, CIP Team 2 CAPO K
Ms LEE Lai-ming, CIP Team 5 CAPO K
Ms YAU Hoi-yan, SIP IPCC C&IIB
Mr AU Yeung-hoi, SIP SD 1 CAPO
Mr NIP Hoi-kwan, SIP SD 2 CAPO
Ms IP Kin-wai, SIP Team 1 CAPO K
Ms WAN Hiu-ting, SIP Team 5 CAPO K
Mr NG Hoi, IP Team 1 CAPO K

Absent with The Hon Kenneth LEUNG Kai-cheong
Apologies: Miss Sandy WONG Hang-yee
Dr Hon Helena WONG Pik-wan
Mr John YAN Mang-yee, SC

PART A OPEN MEETING

Opening Address

The Chairman welcomed all to the meeting held at the new conference room for the first time. On behalf of the IPCC, he thanked Mr D.S. McCosh, CSP C&IIB, who was attending the meeting for the last time, for his contribution and unswerving support to the IPCC over the years. He also welcomed Ms LAM Man-sai, CSP C&IIB (Des). He introduced to the meeting the new Vice-Chairman Hon CHAN Kin-por and new members Mr Clement TAO Kwok-lau, Mr John YAN Mang-yee, Dr Eugene CHAN Kin-keung, Ir Dr Vincent Simon HO and Mr Arthur LUK

Yee-shun.

I **Confirmation of Minutes of the Meeting held on 6 September 2012
(Open Part)**

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

II **Matters Arising**

Expression of Dissatisfaction Mechanism

3. The Chairman invited CSP C&IIB to update the meeting on the progress of the issue.

4. CSP C&IIB reported that in May 2010, CAPO and IPCC formed a Joint Working Group to review the handling protocols and resources allocated for minor complaints and agreed to introduce a new protocol for handling minor complaints titled ‘Expression of Dissatisfaction Mechanism’ or in short ‘EDM’. A 6-month pilot scheme was implemented between 1 April and 30 September 2012 and currently, the EDM protocol in its present state continues to be adopted for handling minor complaints. CAPO conducted a comprehensive review and the results reaffirmed that the EDM protocol is a more straightforward, simple and effective method for early resolution of minor complaints. Four particular objectives of EDM were met, namely early resolution of minor complaints, customer satisfaction, utilization of resources and service improvement. CAPO had taken aboard some suggestions received in the review and intended to make some refinements to the mechanism. CAPO looked forward to the formalisation of the EDM with IPCC’s input and agreement.

5. On behalf of the Joint Working Group, Ms Christine FANG appreciated the efforts and contribution of both CAPO and the Force as a whole for successfully concluding the pilot scheme. From the findings of the review, it was noted that the EDM was well accepted by members of the public as a way for handling minor complaints. She suggested that prior to the formalisation of EDM, some technical issues had to be further examined, and hoped that IPCC and CAPO could address these issues in a

separate meeting.

6. The Chairman confirmed that IPCC and CAPO had agreed in principle to formalize EDM as an alternative way to resolve minor complaints and a channel to allow complainants to express their opinion without going through formal complaint procedures. He hoped that the Working Group could finalize the details and EDM could be formally implemented at the soonest. He also took the opportunity to thank the involved parties for the hard work.

Progress Report on Complaints Relating to Vice-Premier's Visit

7. The Chairman reported that the final report on complaints relating to the Vice-Premier's visit was submitted to the Chief Executive on 18 December 2012. The IPCC also briefed the public on the details of the final report on 19 December. There was no other issue to report.

Progress Report on Complaints Relating to President HU's Visit

8. The Chairman invited CSP C&IIB to provide an update on the investigation progress.

9. CSP C&IIB briefed the meeting that CAPO had received a total of six reportable complaints, one notifiable complaint and two miscellaneous reports (MIS) in relation to the security operation for the visit of President HU. The allegations ranged from 'Impoliteness', 'Misconduct', 'Neglect of Duty' and 'UUOA'. The IPCC had requested two of the complaints to be monitored by the Serious Complaints Committee (SCC). The first case related to the removal of a reporter and the second one related to the discharge of large size OC Foam against protestors outside Central Plaza in Wanchai. For the case relating to the removal of the reporter, investigation had been put on hold in accordance with the 'sub-judice' procedures due to an ongoing lawsuit. For the second case, shortly after making the report the complainant approached CAPO to withdraw the complaint. The withdrawal report was subsequently sent to the IPCC. In November 2012, the IPCC endorsed the withdrawal report but requested for additional information and CAPO was following-up on the issue.

III

Observation During the Public Procession on 1st January 2013 and Complaints Arisen from the Event

10. The Chairman invited Mr Daniel MUI, DSG, to brief the meeting on the observations.

11. Mr Daniel MUI briefed the meeting that during the event on 1st January 2013, six IPCC Members and 14 Secretariat Staff, including the Secretary-General, observed the procession from the starting point. The aim was to observe: (i) the arrangement at the starting point; (ii) police's arrangement on managing the procession and traffic; (iii) situation of street stations; and (iv) the situation of the public meeting outside the Central Government Complex. The observation lasted from 1245 hours to 2230 hours. IPCC's observation revealed that there were about 20 street stations setup along the route. Depending on how crowded a street station was at a particular time, two to eight police officers were seen deployed to maintain law and order. The crowd management and traffic control measures were determined based on prevailing situations. The procession was generally smooth and the IPCC was pleased to see that there was mutual understanding and restraint between Police and the participants of the procession. It was observed that street stations did not cause significant obstruction to the procession and there was no untoward incident in this regard. Whilst some street stations were found set up on pavement, some were setup on the public thoroughfare and in this situation, one lane was occupied at most. To IPCC's knowledge, Police had taken action and arrested some protestors on that night. On 15th January 2013, IPCC Members had a meeting with the representatives of "Power of Anti-Leung" and listened to their opinions about police handling of the procession and the arrest action. IPCC would continue to meet other stakeholders and listen to their opinions. Thereafter, IPCC would arrange a meeting with Police with a view to reflecting all observations and comments. Furthermore, IPCC had written to CAPO to enquire about the complaints emanated from the incident that night and the actions taken by the police. He then invited the representative of CAPO to brief the meeting on the progress of investigation.

12. CSP C&IIB reported that it was quite a successful outing, which commenced with the briefing to Members and the Secretariat staff on 31

December 2012. During the observation, Police had arranged suitably prepared officers to escort Members and Secretariat staff on the ground with instant updates of the latest situation. So far, CAPO has received two reportable complaints. One was under active enquiry whilst in the second case the complainant withdrew the complaint. The Withdrawn Report was being prepared.

13. Mr IP Shing-hing was aware that Police had given warning to 'People Power' as their procession had started from a different starting point. Mr Daniel MUI supplemented that the same procession did not commence until 1430 hours, which represented an hour delay.

14. Mr Eric CHEUNG, who was out of Hong Kong on the day, pointed out that according to the news reports, one of the controversial issues was that the condition in the Letter of No Objection (LONO) forbade the setting of street stations along the procession route. However, he noticed from the briefing by DSG, Police did not take any action against the street stations. He would like to know whether, following some after action review, Police would allow the setting up of street stations in future processions. He opined that the current situation was not ideal because technically street stations were forbidden in the LONO. In addition, he would like to know whether Police had communicated with the organizer before imposing the condition in the LONO and whether the condition in question was imposed with discussion but no consensus could be reached, or there was no communication at all.

15. CSP C&IIB pointed out that he would not comment specifically on this issue but confirmed that like any other major public order events, Police would conduct a review.

16. Mr Lawrence MA pointed out that when the procession concluded that night, a lot of protestors gathered along major thoroughfares causing obstruction to the public. He would like to know whether complaints have been received from the affected members of the public.

17. CSP C&IIB responded that in addition to the reportable complaints that had been categorized, CAPO had a number of phone-ins and email contacts from people expressing their dissatisfaction over what took place that evening. Those were not formal complaints but

grievances, which had been resolved.

18. The Chairman stated that IPCC would follow up the issue by interviewing other organizers or stakeholders in the coming future to exchange ideas with a view to finding out if there was any room for improvements. IPCC also hoped that after collecting information, they could discuss with the Police about issues that would easily arise in future public order events and any improvements Police could make within their purview. He appreciated that Police needed to consider a series of factors when issuing the LONO and each case was different in nature and required to be considered on its own merit. He pointed out that there was an appeal mechanism in place, if the organizers had dissatisfaction after the issuance of the LONO, they could appeal to an Appeal Board. However, in the instant incident, after the subject condition about street stations was imposed in the LONO, the organizer(s) did not make any appeal but instead, stated that they would ignore the imposed condition. He considered this phenomenon not ideal because the procedures existed for a reason. He understood that time could be a concern and if both parties could discuss the details of the procession a bit earlier, sufficient time would be left for the organizer to bring up any matter to the Appeal Board and let the board adjudicate, and refine the arrangements. As such, IPCC wanted to discuss with the Police after obtaining more information, with a view to improving the whole procedures.

19. Dr Eugene CHAN participated in the observation and gave his observations to the Meeting. He appreciated that the Police had tried to persuade the protestors as far as they could, as this approach would not irritate the protestors or lead to further resistance.

20. CSP C&IIB thanked Dr CHAN for the comment and pointed out police officers on the ground would try their best to balance the interest of different parties all the time and took the best course of action. Police had exercised high degree of restraint with a view to achieving the best outcome at the material time.

21. Mr Eric CHEUNG would like IPCC to meet relevant police units in order to reflect their observations and discuss how current procedures could be improved. He urged for a meeting before the next major public order event. This could avoid further confrontation or unnecessary

complaints in future events.

22. The Chairman agreed with Mr CHEUNG that both parties could do more at an early stage. He would like to disseminate a correct message to the public that he understood these public order events most often than not had affected a wide spectrum of the community, if members of the public were informed of the arrangements earlier and let them prepare ahead, the chance of resulting in disorder would be reduced, and the less chance of complaints against Police. He understood that Police would facilitate as far as possible citizens participating in these peaceful activities and express their views. At the same time a balance should be struck to protect the interest and rights of other citizens such as residents, road users or shop owners along the route affected by the public order event. He believed if in future, Police and organizers could commence their discussions earlier, relevant information could be disseminated to the public in advance. CSP C&IIB acknowledged the opinions and suggestions.

IV. CAPO's Monthly Statistics

23. The Chairman invited CSP C&IIB to report on the complaint statistics.

24. CSP C&IIB presented the complaint statistics to the meeting and reported that there was a consistent drop in complaint figures over the past three years. It is observed that from the second half of 2010 onwards, there was a steady downward trend. In 2012, there were 2,379 cases received, which is lower than the average of 2,600 cases per year before the implementation of the IPCCO in 2009. CAPO was pleased to see the drop in complaint figures and this was attributed to the joint efforts of both IPCC and CAPO in complaints prevention and the enhanced sensitivity amongst frontline officers. There was also a general drop in complaint numbers in all types of allegations over the past three years except for 'Assault', which recorded a slight increase of seven cases in 2012 as compared with 2011. In the two most prevalent allegations, namely 'Neglect of Duty' and 'Misconduct, Improper Manner and Offensive Language', there was a drop of 10.9% and 19.9% respectively in comparison with the same period of 2011. There was an even more significant decrease of 25.1% and 30.1% in comparison with the same

period in 2010. Finally, complaints of minor nature, namely ‘Neglect of Duty’, ‘Misconduct, Improper Manner and Offensive Language’ consistently constituted about 80% of the overall complaints. Whilst serious allegations such as ‘Assault’, ‘Fabrication of Evidence’, ‘Threat’ and ‘Unnecessary Use of Authority’ made up not more than 20% of the overall cases throughout the years. Such pattern was more or less the same in the past two years.

V. CAPO’s Criminal and Disciplinary Checklist

25. The Chairman invited CAPO to brief the meeting in respect of the Criminal and Disciplinary Checklist.

26. CSP C&IIB replied that there was nothing particular to highlight.

VI. Any Other Business

27. There being no other business, the meeting concluded at 1740 hours. The date of next meeting was scheduled for 2013-04-30.

(WONG Chui-hoi)
Joint Secretary
Complaints and Internal
Investigations Branch

(Patricia WOO)
Joint Secretary
Independent Police
Complaints Council