

**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 1600 hours on Tuesday, 30 April 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	
	Miss Sandy WONG Hang-yee	
	Dr Hon Helena WONG Pik-wan	
	Ms Noeline LAU Yuk-kuen	
	The Hon Kenneth LEUNG Kai-cheong	
	Dr Carol MA Hok-ka	
	Miss Mary WONG Tak-lan	
	Mr Adrian YIP Chun-to, BBS, MH, JP	
	Mr Edwin CHENG Shing-lung	
	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	
	Mr Henry SO, Acting ASG IPCC	(Joint Secretary)
	Mr TANG How-kong, DMS	
	Mr P. R. Morgan, ACP SQ	
	Ms LAM Man-sai, CSP C&IIB	
	Mr SIU Kit-hung, SSP CAPO	
	Mr CHENG Yiu-mo, SSP OPS HKI	
	Mr TONG Chi-chung, SP CAPO HQ	(Joint Secretary)

In Attendance : Mr Ricky CHU, SG
Mr Daniel MUI, DSG
Ms Cherry CHAN, LA
Mr WONG Chui-hoi, SP CAPO HKI
Ms TONG Sze-mun, ADVC OPS WCHDIV
Mr SHUM Hoi-kwong, CIP CAPO HQ (1)
Mr WONG Ho-hon, CIP CAPO HQ (2)
Ms YAU Hoi-yan, SIP IPCC C&IIB
Mr KWOK Kin-wai, SIP Team 2 CAPO HKI
Mr YEUNG Kong-hai, SIP Team 3 CAPO HKI

Absent with Mr John YAN Mang-ye, SC
Apologies: Mr Gerard CHUNG Wai-hung

PART A OPEN MEETING

Opening Address

The Chairman welcomed all to the meeting.

I Confirmation of Minutes of the Meeting held on 31 January 2013 (Open Part)

2. The Chairman stated that line 3 of para. 22 of the minutes of the last meeting should be amended as '*more often than not*'. The minutes were confirmed without other amendment.

II Presentation on Public Order Events Related Issues

3. The Chairman invited the police representative to give a presentation on the subject matter.

4. CSP C&IIB acknowledged IPCC's concern over the prevention of possible complaints arising from Police's handling of POEs, in particular the management of street stations during the New Year Procession in 2013. CAPO had therefore arranged relevant police Formations to give briefings to IPCC members regarding the police procedures and arrangements in handling POEs, and organized on-site observations for IPCC members during large scale

POEs. To address IPCC's concern regarding the setting up of street stations in POEs, she invited Mr. Nelson CHENG, SSP OPS HKI, to give a briefing to the meeting.

5. SSP OPS HKI presented to the meeting the rationale behind the conditions on street stations in the Letter of No Objection (LONO) for the New Year Procession in 2013. He explained that the biggest challenge encountered by police in large scale POEs was crowd congestion especially at some choke points. The congestion was exacerbated by the street stations set up along the procession route. He cited the 1 July 2012 procession to illustrate the problems encountered by Police in the management of crowd and maintenance of public safety. He reiterated that Police's primary concern is to ensure public safety and public order. According to the Police Force Ordinance, Police has the legal obligation to facilitate all peaceful public meetings and processions and should take all reasonable steps to ensure that they are carried out peacefully and safely. He also stated that Police are empowered under the Public Order Ordinance to impose proportionate and reasonable conditions in respect of any public meetings and processions in the best interest of public safety and public order.

6. SSP OPS HKI went on to brief the meeting that having considered the past experience in 1 July 2012 procession and risk assessment conducted, Police decided to impose conditions in the LONO governing the New Year Procession in 2013 and prohibited any street stations causing unreasonable obstruction to be set up along the procession route. He stressed that any unreasonable obstruction along the procession route would create risk to the safety of protestors, other members of the public and police officers. He stated that Police had also notified the organizers in respect of the conditions imposed and had had two meetings with them prior to the event. He reiterated that Police would endeavour to facilitate all peaceful public meetings and processions. He hoped that Police and organizers could reach a consensus regarding street stations in the future.

7. The Chairman stated that regarding street stations, IPCC had repeated the importance of more communication with organizers to minimize unnecessary misunderstanding. He further stated that after the on-site observation on 1 July 2012, IPCC had had meetings with several organizers who expressed concerns on various issues such as road closure, street stations, use of equipment and consultation with the District Council. IPCC had

passed their comments to Police and acted as the bridge to establish effective communication between the police and the organizers and hoped that a consensus could be reached in the arrangement. He recommended that police could start liaising with organizers at an earlier stage in the future to minimize possibility of complaints .

8. Dr Hon Helena WONG thanked Police for its liaison work with the organizers in POEs. She wished to clarify if the restriction on street stations would become a policy in the issue of LONO in future large scale POEs. She asserted that Police had the duty to facilitate protesters to express their views and should communicate with the organizers with regard to the imposition of the restriction on street stations. She further queried if obstruction was an important concern, then the flower beds outside the LOCPG should be removed as they had caused unreasonable obstruction to protestors.

9. SSP OPS HKI clarified that the flower beds outside LOCPG was not set up by Police and he was not in a position to make any comment on it. He emphasized that Police did not object to the setting up of street stations but only objected to those that caused unreasonable obstruction to the protestors. He reiterated that Police has the legal obligation to take action if it is foreseen that any unreasonable obstruction would create risk to public safety. He asserted that the exact wordings to be included in the LONO would mainly depend on the risk assessment and the prevailing situation.

10. The Hon Kenneth LEUNG commented that the setting up of street stations would not cause obstruction along the entire procession route but only at some choke points. He suggested Police to specify the locations where street stations would be allowed and to control the size of street stations. He pointed out that during his 1 July observation with other IPCC members, he was informed by Police that one of the major choke points was outside Southorn Playground but a large scale street station was allowed to be set up thereat and he wondered whether Police had communicated with the organizers prior to the event.

11. SSP OPS HKI explained that Police would endeavour to reach a consensus with the organizers about the setting up of street stations prior to the event. He assured that Police had never targeted street stations but the focus was to avoid obstruction during POEs for public safety.

12. Dr Hon LAM Tai-fai commented that the setting up of street stations would invariably cause obstruction and he hoped that there would be a balance between the freedom of expression of the protesters and the rights and safety of other members of the public including tourists, shoppers and shop operators. He suggested to review regularly restrictions on street stations, including the size, the crowd attracted, the duration as well as the distance between each street station. These restrictions should be communicated to all stakeholders so that everyone would know about these restrictions. He opposed to street stations being set up on the pavement as they would cause obstruction to the pedestrians and reduce patronage to the shops thereat.

13. SSP OPS HKI responded by saying that street stations approved by the Food and Environment Hygiene Department were limited to 1 meter x 2 meter in size and they were to be set up on the pavement. He agreed that procession would inevitably cause obstruction to the public to a certain extent. Therefore, Police needs to ensure the obstruction caused is not unreasonable.

14. The Chairman urged Police to adopt a holistic or an inter-departmental approach in processing the applications for setting up street stations.

15. SSP OPS HKI agreed to take the Members' comments into consideration in planning future POEs.

16. Mr Eric CHEUNG queried if it was necessary to completely ban street stations in POEs. He commented that the wordings of the conditions in the LONO were ambiguous, causing the organizer to misconceive that no street station was allowed. He further commented that apart from the eastern side of Percival Street where unreasonable obstruction to the procession would be caused by street stations, not everywhere along the route of the procession at Hennessy Road were choke points that would create obstruction by street stations and Police should be able to identify those choke points. He urged the Police to consider opening the East-bound carriageway of Hennessy Road to facilitate the smooth progress of the procession. He advised that any new measures introduced into the management of POEs should be done carefully to avoid being misconstrued as a means of suppressing the freedom of speech and the rationale behind the new measures should be communicated to the organizers with a view to reaching a consensus.

17. The Chairman echoed the view that the organizer should be engaged

well before the notification was submitted. The discussion with the organizer might not be simply confined to street stations but might include the options for the procession route.

18. SSP OPS HKI agreed that the suggestion was constructive especially for POEs involving more than one organizer.

19. Ms Christine FANG asked if there had been any complaints relating to street stations. She commented that any new measures, such as the Long Range Acoustic Device, Body Worn Video Camera and the consultation with the District Council prior to POEs, should be communicated to the public and the organizers to ensure that their views could be reflected to Police to enhance the management of the POEs. She also suggested that Police should let the public know under what circumstances a lawful POE would become unlawful and what actions would be taken by the police when a POE become unlawful.

20. SSP OPS HKI replied that no complaint in relation to street stations had been received. He clarified that the Long Range Acoustic Device was not used for handling POEs and a briefing about the device had already been given to IPCC. He highlighted that Police had enhanced its transparency by disseminating information on POEs through public announcement, press briefing and the Police Public Page. He asserted that the actions taken by Police depend very much on the actual circumstances. If the POE is peaceful and lawful, no action would normally be taken by the police.

21. The Hon CHAN Kin-por commented that disallowing organizer to set up street stations was not practical. Instead of categorically banning street stations, Police should better control them by allowing street stations with size limits, at a first come first serve basis, at certain locations where no obstruction would be caused.

22. SSP OPS HKI responded by saying that subject to the agreement of the organizers, some road junctions and the Southorn Playground are suitable for setting up street stations. He went on to explain that applications for setting up street station are to be made to the FEHD while applications for those involving collection of donation are to be made to the SWD.

23. Dr Eugene CHAN quoted his experience of the on-site observation on 1 January 2013 and he agreed that there was a need to control but not to

restrict the setting up of street stations.

24. The Hon Abraham SHEK commented that a one-stop or an inter-departmental approach should be adopted in processing applications of street stations.

25. The Chairman opined that the recommendations made are constructive and would be properly documented for follow-up.

III. Matters Arising

26. Nil.

IV. CAPO's Monthly Statistics

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

28. CSP C&IIB reported that there had been a steady drop in complaint figures over the past three years. There was a drop of 20.1% between the figures of the first quarters of 2011 and 2012, and a further drop of 9% between the same period of 2012 and 2013. Except 'Neglect of Duty' with a slight increase of 1.3%, all allegations dropped in the first quarter of 2013 when compared with the same period of 2012. There was however a drop of 16.3% in 'Neglect of Duty' in 2013 when it was compared with the same period in 2011. For the allegations of 'Misconduct and Improper Manner' and 'Fabrication of Evidence', there was a significant drop of 19.4% and 54.5% respectively as compared with the same period last year. The allegations of 'Assault', 'Threat' and 'Unnecessary Use of Authority' however remained fairly stagnant with a slight drop of about 6-9%. She opined that the drop in complaint figures in the past years was the result of the joint efforts of both IPCC and the Force as well as the understanding and recognition of the public. However, she reminded that the downward complaint trend would not be everlasting and greater efforts in complaint prevention should be maintained to ensure the services delivered are up to the public expectation in a bid to maintain the complaint figures at a low level.

29. CSP C&IIB also took the opportunity to clarify the Country Reports

on Human Rights Practices for 2012 published by the US Department of State which mentioned that there was a 10-fold increase in complaints against Police in the first half of 2012 as compared with the same period of 2011. She clarified that there had been a significant drop in complaints figures since 2009. In 2012, CAPO received 2,379 cases, representing a decrease of 14% as compared with the 2,772 cases in 2011.

30. Mr Lawrence MA enquired if Police would request the US Department of State to amend the report accordingly.

31. CSP C&IIB responded by saying that the Constitutional and Mainland Affairs Bureau had already issued a press release to clarify the matter.

V. CAPO's Criminal and Disciplinary Checklist

32. Nil.

VI. CAPO's Acquisition of ISO 10002: 2004 Certification

33. The Chairman invited CSP C&IIB to brief the meeting on the subject.

34. CSP C&IIB reported that CAPO had developed a robust complaints handling mechanism and worked well with IPCC. The current two-tier complaints mechanism has been accepted by the general public as a fair and efficient system. With a view to further enhancing public confidence in the complaint handling mechanism, CAPO had acquired the ISO 10002:2004 certification. She explained that ISO 10002:2004 is an internationally recognized standard on "Guidelines for Complaints Handling in Organization". Experts of different countries made references to best practices in the different industries and devised this international standard. After assessment by an independent certifying body, CAPO's complaints handling process was found to have conformed with this international standard. In March 2013, CAPO passed the external audit conducted by the certifying body and the ISO certificate would be awarded to CAPO in May 2013. She stressed that the excellent achievement was due in no small part to the continuous professional working relationship between CAPO and IPCC.

35. Dr Hon LAM Tai-fai questioned what other organizations in Southeast Asia have also obtained the certification.

36. CSP C&IIB replied that the certification was also awarded to the Immigration Department in Macau and CAPO would provide supplementary information to IPCC later about other organizations that had also obtained the same certification.

37. Mr IP Shing-hing enquired about the criteria in obtaining the certification.

38. CSP C&IIB explained that an organization is required to meet nine guiding principles in order to obtain the certification, namely visibility, accessibility, responsiveness, objectivity, charges, confidentiality, customer-focused approach, accountability and continual improvement.

(Post Meeting Notes: On 2013-05-27, a memo was sent to IPCC to list out the local and international organizations awarded with ISO 10002 certification for the Members' information.)

VII. Any Other Business

Service Improvement arising from Case Examination

39. The Chairman invited CSP C&IIB to brief the meeting on the item.

40. CSP C&IIB briefed the meeting that upon receipt of IPCC's comments stemming from case examination, CAPO would pass them to the responsible units for review to ensure the recommended improvement measures are handled properly. She quoted two examples to illustrate how the complaint system served the purpose of service improvement. One of the cases was related to a complaint lodged by a complainant (COM) who was informed by Police that the iPhone that he had found would not be returned to him even though it had remained unclaimed for 3 months as the phone contained personal data. As recommended by IPCC, the Found Property Receipt (Pol. 68D) was revised to include a declaration to be signed by the finder to the effect that the finder has been informed that Police is obliged to comply with the PDPO to protect the personal data contained in the found property. The other case was related to a complaint where COM failed to produce the required document to reclaim his car that had been

impounded by Police. After examining the circumstances, IPCC suggested to revise the standard letter and leaflet concerning the “Reclaim of Vehicle from Police Detention” (Pol. 789) to state specifically the documents to be produced for reclaiming vehicle. She considered the above examples could reflect the effectiveness of the two-tier complaint system and the concerted efforts made by IPCC and the Force in service improvement. She asserted that both parties would continue to cooperate with a view to enhancing the overall service quality of the Force.

41. Mr Eric CHEUNG pointed out that it is important to make continual improvement through complaints. He commented that the Hong Kong Police Force is one of the best police forces in the world. The majority of the complaints in recent years were minor in nature and sometimes the complaints were made due to some loopholes in the existing procedures instead of the negligence of officers concerned. He suggested that police should let the public know more about the improvement measures the Force have made.

42. CSP C&IIB thanked Mr CHEUNG for the comments.

43. Dr Hon LAM Tai-fai suggested the Force and the government to regularly review guidelines on handling POEs in the present changing environment to ensure public order.

44. CSP C&IIB agreed to seriously consider Dr LAM’s comments.

Note of Thanks to DMS

45. The Chairman announced that this would be the last meeting for DMS before his retirement and he would like to take this opportunity to thank DMS for his contribution and support over the past three years, including arranging formation visits for IPCC, inviting IPCC representatives to attend RCPC meetings and enabling IPCC to communicate with frontline officers and accepting views collected by IPCC from stakeholders. During his tenure as DMS, improvements were made to the complaints system, such as the implementation of Centralization, TRS and EDM. He wished DMS a happy retirement.

46. DMS thanked the Chairman for his kind words and he took the opportunity to thank IPCC for the valuable comments given to the Force

throughout the years. Since his assumption of post and the implementation of the IPCCO, he witnessed the transformation and improved efficacy in procedures and practices relating to the working relationship between IPCC and CAPO. Though performing different roles, it was pleasing to notice that both IPCC and CAPO have worked seamlessly with a view to enhancing the integrity and public confidence of the two-tier complaints system. To this end, he would like to offer his heartfelt appreciation to the Chairman and Members for their professionalism, contributions and relentless efforts. Moreover, DMS asserted that the success of the current two-tier complaints system did not count on the complaint figures but support and recognition from the public and different stakeholders, including police officers. In today's Hong Kong where the overall crime situation remains stable, it is not uncommon for the public to challenge and criticise fundamental law enforcement actions. Police officers understand the importance of these fundamental functions is essential in maintaining a safe and stable society. Whilst police officers appreciate that some members of the public may hold different views, they believe the crux of the matter is whether the IPCC would appreciate their actions. In his engagement with frontline officers, DMS was pleased to note that many police officers held IPCC's work, in particular its fair and impartial vetting, observations and comments in high regard. All in all, he had full confidence in the integrity of the current two-tier complaints system and once again, he thanked IPCC for their unwavering support and contribution.

47. There being no other business, the meeting concluded at 1750 hours. The date of next meeting was scheduled for 2013-07-15.

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