

**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 1545 hours on Thursday, 11th December 2014**

Present :

Mr Larry KWOK Lam-kwong, BBS, JP	(Chairman)
Hon CHAN Kin-por, BBS, JP	(Vice-chairman)
Hon Abraham SHEK Lai-him, GBS, JP	(Vice-chairman)
Dr Eugene CHAN Kin-keung, JP	
Dr CHAN Pui-kwong	
Mr Edwin CHENG Shing-lung, MH	
Mr Eric CHEUNG Tat-ming	
Ir Dr Vincent Simon HO	
Miss Lisa LAU Man-man, BBS, MH, JP	
Hon Kenneth LEUNG Kai-cheong	
Dr Carol MA Hok-ka	
Mr Lawrence MA Yan-kwok	
Ms Ann SO Lai-chun, MH, JP	
Ms LAU Yuk-kuen, Noeline	
Mr Arthur LUK Yee-shun, BBS, SC	
Miss Mary WONG Tak-lan	
Mr Adrian YIP Chun-to, BBS, MH, JP	
Mr Ricky CHU, SG	
Mr Daniel MUI, DSG	
Mr Henry SO, ASG	(Joint Secretary)
Ms Cherry CHAN, LA	
Ms CHIU Wai-yin, DMS	
Mr P. R. MORGAN, ACP SQ	
Ms LAM Man-sai, CSP C&IIB	
Mr HO Ying-foo, SSP CAPO	
Ms LAI Pik-ngor, SP CAPO HQ	(Joint Secretary)
Mr LAI Hau-kwong, ADVC OPS NPDIV	

In Attendance :

Mr WONG Kwok-kit, SP CAPO K	
Ms CHENG Lai-ki, SO CAPO NT	
Ms FONG Melinda M.Y., CIP CAPO HQ (1)	
Ms SHUM Pok-yu, CIP Team 1 CAPO K	
Mr CHAN Yan, CIP SD Team 1 CAPO	
Miss WUT Yin-kum, CIP SD Team 2 CAPO	
Mr LAW Rocken, SIP IPCC CAPO	

Mr LO Kin-yin, IP Team 3B CAPO HKI
Miss TAI Ying-wai, IP Team 1B CAPO NT

Absence with
apologises: Dr Hon LAM Tai-fai, SBS, JP (Vice-chairman)
Ms Christine FANG Meng-sang, BBS, JP
Mr Simon IP Shing-hing, JP
Mr Clement TAO Kwok-lau, BBS, JP
Miss WONG Hang-yee, Sandy
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.

I. Confirmation of Minutes of the Meeting held on 18th September (Open Part)

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

II. Update on complaint statistics and the approach of complaints investigation in the Occupy Central series of incidents

3. CSP C&IIB reported that between 27th September 2014 and 10th December 2014, 1,959 complainants had lodged complaints. 104 complaints were classified as 'Reportable Complaints', in which 67% were related to incidents occurred in Mongkok; 33% were related to incidents occurred on Hong Kong Island. Of these 1,959 complainants, 93% were not directly affected by the police conduct and they lodged the complaints based on media reports. So far, CAPO had contacted 30% of the complainants and verified their information and allegations. Attempts had been made to contact another 40% of the complainants but in vain. The remaining 30% were fresh complainants who would be contacted in due course.

4. The majority of the complaints were 'Neglect of Duty'. The allegations varied from the impartiality of police officers in dealing with protestors to failing to take strict enforcement actions against the protestors. For allegations of 'Misconduct', the complainants were mostly dissatisfied with individual officer's attitude. For serious complaints, there were 48 cases of 'Assault' and 8 cases of 'Unnecessary Use of Authority'. 21 complainants out of the 48 cases of 'Assault' were arrested persons.

5. On 27th September 2014, CAPO had redeployed the existing resources to assist in the 'Occupy Central' related duties, including manning the Public Enquiry Unit (PEU) and setting up three Special Duty (SD) Teams. The PEU was responsible for handling enquiries and complaints from the general public, while the three SD Teams were tasked to investigate the related complaints.

6. CSP C&IIB stated that officers of CAPO were well trained to investigate complaints of normal and crime nature. Upon conclusion of the investigation, CAPO would seek endorsement from the IPCC. SSP CAPO & SP of the respective regions would closely supervise all the investigations and legal advice would be sought if necessary.

7. CSP C&IIB further reported that 37 statement taking and scene visit were conducted with the presence of IPCC Observers for cases related to 'Occupy Central' movement. CAPO would expedite the investigation. It was agreed that all 'Occupy Central' related complaints would be monitored by the IPCC's Serious Complaints Committee (SCC). CAPO was required to timely report to SCC on the investigation progress. Two meetings had already been held so far.

8. CSP C&IIB pledged to strive the best effort to maintain the effectiveness of the two-tier complaint system. The IPCC's role was to provide constructive suggestions and to ensure the complaints were investigated fairly by CAPO.

III. Monitoring of complaints investigation work of CAPO in connection with Police actions in the Occupy Central Series of Incidents

9. Hon Abraham SHEK, the Chairman of the Serious Complaints Committee (SCC) reported that all complaint cases related to 'Occupy Central' movement would be vetted by the Deputy Secretary-General (DSG) and Senior Vetting Officers (SVO) before passing to the members. Any query arising from the investigation would be referred back to CAPO. He encouraged not only the SCC members but also the IPCC members to provide comments accordingly.

10. Dr Eugene CHAN raised concerns regarding medical helpers being mistreated as protestors. Dr CHAN asked whether any arrangement be made in the future to better facilitate the medical helpers at the scene of protest.

11. CSP C&IIB responded that there were a large number of medical helpers at the scene as reported by the media. She reassured the meeting that Police would not hinder the work of the medical helpers at the scene if they could clearly identify themselves. Nevertheless, it would be difficult for Police to distinguish them from the crowd during chaotic situation if no identification document was shown. There were no complaints received from any medical helpers so far. Police would review the whole operation in the near future.

12. DMS echoed that over 90% of the complaints were lodged by members of the public after they had learnt the incidents from media reports. They were in fact not the directly affected parties. The previous two months had been a great challenge to the Police. The complexity of the 'Occupy Central' movement was that it had involved different protestors who held diverse views to the issue. It was clear that the movement was an unlawful act and the most important role of the Police was to maintain law and order. She hoped that the IPCC and the general public would understand the difficulties faced by the Police. A review would be conducted by the Police in respect of the whole operation.

13. Hon Kenneth LEUNG questioned the misunderstanding and conflicts between the Police and the media. He asked whether the Police would consider holding meeting with the Hong Kong Journalist Association (HKJA) to discuss future arrangement. Issue of concerns including proper identification and communications at scene of protests by the media and the Police.

14. DMS stated that communications with HKJA had already been established. Police respected the freedom of press and had repeatedly reminded the reporters at the scene to avoid positioning themselves between the police officers and protestors for safety reasons. The Commissioner of Police and Deputy Commissioner of Police, Operation had meetings with the media and explained how the Police could better facilitate the media. Moreover, the Police had held press conference to explain in detail the road opening operations. The media were reminded to display their media passes so that they could be easily identified.

15. CSP C&IIB added that the Media Liaison Team (MLT), consisting officers with media background were deployed at the scene to enhance communications with the general public.

16. Mr Lawrence MA commented on the misinterpretation of IPCCO Section 8 (1)(c) and misconception on the power of the IPCC by the general public. It should be clarified that the IPCC was given the power under such provision for better understanding of the Police's deployment, but not to supervise their works.

17. Hon Kenneth LEUNG echoed that the IPCC should also consider to educate the general public on the functions of the IPCC, such as the purpose of site visit and the systematic approach of monitoring complaint investigations.

18. Miss Lisa LAU commented that the conflicts between police officers and protestors reported by the media could cause stress to the frontline officers, possibly leading to the usage of excessive force or violence during their encounters. She asked whether the Police had any assistance provided to manage emotion

and stress of the officers.

19. CSP C&IIB stated that the majority period of the ‘Occupy Central’ movement was peaceful. Police only resorted to use force when it was necessary on certain occasions. Nevertheless, the media chose to only report the confrontations between the Police and the protestors.

20. DMS replied that in the past two months, police officers were tasked to handle the protest in order to ensure the public peace and safety. Not only that they were provoked and insulted by language and gesture by the protestors, their family members were also abused by Internet bullying. Such acts had inevitably caused stress to the officers and thus possibly affected their performance. Senior Force management was well aware of the situation and therefore, training on positive psychology was provided timely to them.

21. Hon CHAN Kin-por pointed out the latest changes in the complaint trend and complaint culture in Hong Kong. It was a concern that ‘Reportable Complaints’ made by complainants who were actually affected by police conduct would be overshadowed by the mass volume of ‘Notifiable Complaints’ made by complainants who merely wanted to express their political stance through the complaint system. He raised the concern on CAPO’s resources allocation.

22. CSP C&IIB replied that with limited resources, it had been decided that the complaints would be prioritized, which ‘Reportable Complaints’ would be dealt with promptly.

23. Hon Abraham SHEK asked CAPO to explain the different levels of force that had been used and the relevant authority of using such force during the ‘Occupy Central’ movement. He also questioned why it had taken such a long time to open up the roads.

24. CSP C&IIB explained that there was a genuine misunderstanding on the use of force by the general public. The execution of police power were governed by the Laws of Hong

Kong and Police procedures. Police would only resort to the use of force if it was necessary to achieve the purpose. Every member of the Force was trained and qualified to use force when situation merit. Warning and the level of force to be used had to be given, followed by the time given to the suspect to stop their act and surrender.

25. DMS commented that during the 'Occupy Central' movement, there were protestors with different views in multiple areas. The prolonged Police operation was necessary to avoid resistance and minimize casualty. It was not an easy task. Moreover, there were opposite views in the society putting the Police into an awkward position. Indeed, Police had tried to re-open the main thoroughfares by a low-risk approach, including deployment of liaison officers to persuade protestors to leave and attempted to remove obstructions. However, protestors fled from one area to another and continue with their illegal occupation of the area. Hence, it took a considerable longer period of time to plan the operation which would minimize damages and casualties.

26. Mr Eric CHEUNG clarified with the Police about the Police procedures that before effecting an arrest, Police should inform the subject person the reason of his/her arrest, unless it was practically impossible. He questioned that on some incidents, it appeared that people were arrested without any notifications.

27. CSP C&IIB clarified that for mass arrest, officer of the most senior rank at scene would give warning to the offenders and explain the offence committed before effecting the arrest.

28. Mr Eric CHEUNG raised queries on the detention of the arrested persons. He said that arrested persons would normally be released in several hours after statements were taken from them. However, on this occasion the public queried that some arrested persons were detained overnight or some 48 hours.

29. CSP C&IIB responded that the detention and release of arrested person was executed in accordance with the police procedures. She would not comment on individual cases at the

meeting.

30. Mr Eric CHEUNG further questioned on the following items:-

- To confirm that Police procedures have recently been revised to require the frontline officers to consider, whether or not it is necessary to take arrest action and that the officer-in-charge of the case should consider to release a person unconditionally without any need for entering into bail though the investigation had not been completed.
- The emotional problems faced by the frontline officers from 'Occupy Central' movement and whether the Police Management had any mechanism to proactively approach frontline officers for managing their emotions so that officers under emotional stress or cannot control their emotions would not be tasked to handle frontline duties vis-a-vis the protestors.
- The handling of medical helpers during the protest and any mechanism to distinguish them from protestors.
- Whether 'Occupy Central' movement was considered an unlawful assembly and tried to clarify the difference between an unlawful assembly and an unauthorized assembly in a crowd of people. He quoted an example. When 200 people attended an unauthorised assembly, 10 of them were engaged in disorderly or violent behaviour which may lead to social disorder. He asked if it was only the 10 people who behaved in disorderly behaviour be considered for participating unlawful assembly but not the remaining 190 participants.
- The authority of CAPO officers to investigate allegations of crime and the mechanism for police officers to declare conflict of interest during investigation and how to ensure public confidence that the police would handle the complaint fairly.

31. The Chairman asked CAPO to respond briefly and follow up by a written response on the remaining items.

32. CSP C&IIB stated that under Section 18 of the Public Order Ordinance, Cap 245 of the Laws of Hong Kong, when three or more persons, assembled together, and conducted themselves in a disorderly, intimidating, insulting or provocative manner intended or likely to cause any person reasonably to fear that the persons so assembled would commit a breach of the peace, or would by such conduct provoke other persons to commit a breach of the peace, they were an unlawful assembly. It was immaterial that the original assembly was lawful. Any person who took part in an assembly which was an unlawful assembly should be guilty of the offence.

33. DMS supplemented that the Ordinance had clearly defined the act of an unlawful assembly. During the protest, Police had repeatedly reminded the persons taking part in the occupy incidents that they were engaged in an unlawful assembly, it was impossible for them to deny such knowledge.

(Post Meeting Note : The remaining issues raised by Mr CHEUNG were addressed to the IPCC on 9th January 2015 in writing.)

IV. Matters Arising

34. Nothing was raised in the last meeting.

V. CAPO's Monthly Statistics

35. CSP C&IIB shared with the meeting on the findings of a few surveys regarding the position of Hong Kong. According to the Global Competitiveness Report by the World Economic Forum, Hong Kong ranked No.4 in the year of 2013/14 in the terms of 'Reliability of Police Services'. The ranking was higher than other major countries including Canada, United Kingdom and United States. Under the Legatum Prosperity Index, out of 141 countries or major cities, Hong Kong ranked No.20 on the prosperity level; it

ranked No.1 for two consecutive years in the area of safety and security. The surveys were evidence of the Police work to maintain Hong Kong as one of the safest city in the world.

36. CSP C&IIB further reported that the overall complaint in the first ten months of 2014 remained stable with an average of 193 cases per month. A total of 1,934 Reportable Complaints was received between January and October 2014. When compared with the same period last year, it recorded a decrease of 4.4%. Minor complaints such as ‘Neglect of Duty’, ‘Misconduct and Improper Manner’ represented 80.3% of the total complaints while serious complaints including ‘Assault’, ‘Threat’, ‘Unnecessary Use of Authority’ and ‘Fabrication of Evidence’ only represented 15.3%.

VI. CAPO’s Criminal and Disciplinary Checklist

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

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

VII. Any Other Business

39. The Chairman thanked the two retiring Vice Chairmen, Hon Abraham SHEK Lai-him, GBS, JP and Dr Hon LAM Tai-fai, SBS, JP, and two Members Ms Christine FANG Meng-sang, BBS, JP & Mr Eric CHEUNG Tat-ming for their services throughout the past six years in the IPCC. Their contribution had been enormous, including supervision of CAPO investigations, participations in on-site observation and enhance the communication with the Police. All their efforts had undoubtedly brought public confidence to the two-tier complaint system. He wished the Vice Chairmen and the Members every success in their future endeavour.

40. DMS also thanked the Vice Chairmen and the Members on behalf of the Force for their constructive suggestions throughout the years and wished them all the best in their future endeavour.

41. There being no other business, the meeting concluded at 1720 hours.

(LAI Pik-ngor, Jenny)
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