

**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 1530 hours on Tuesday, 28 September 2021**

Present:

IPCC

Ms Priscilla WONG Pui-sze, SBS, JP (Chairman)
Hon Frankie YICK Chi-ming, SBS, JP (Vice-chairman)
Hon Ronick CHAN Chun-ying, JP (Vice-chairman)
Hon Jimmy NG Wing-ka, BBS, JP (Vice-chairman)
Mr Clement CHAN Kam-wing, MH, JP
Mr Alex CHU Wing-yiu
Mr Roland WONG Ka-yeung
Mr Paul LAM Ting-kwok, SBS, SC, JP
Ms Ann AU Chor-kwan
Mr Wilson KWONG Wing-tsuen
Miss Sylvia LEE Hiu-wah
Dr David LEE Ka-yan, BBS, MH, JP
Ms Melissa Kaye PANG, BBS, MH, JP
Prof Martin WONG Chi-sang
Mr Johnny YU Wah-yung, JP
Ms Jane Curzon LO, JP
Mrs Helen YU LAI Ching-ping, SBS
Dr Daniel CHAN Ching-yan, MH
Miss Mabel CHAN Mei-bo
Mr Randy YU Hon-kwan, MH, JP

Police

Ms Rebecca LAM Hiu-tong, DMS
Ms Anna TSANG Yim-sheung, ACP SQ
Ms Monica AU YEUNG Mun-ye, CSP C&IIB
Mr Sam LAW Shui-sum, SSP CAPO
Mr Simon CHAN Wai-ming, SSP SD CAPO
Ms Daisy CHIU Yik-man, SP HQ CAPO
Mr Albert TSANG Hin-kin, SP E&C NTN

Secretariat

Mr Daniel MUI Tat-ming, SG (Atg)
Ms Regina LAU Ngai-kit, DSG (OPS) (Atg)
Mr Vincent SIN Ying-sang, DSG (MGT)
Ms Cherry CHAN Man-yi, LA

**Absent with
apologies**

Mr Barry CHIN Chi-yung
Mr Douglas LAM Tak-yip, SC
Dr Anissa CHAN WONG Lai-kuen, SBS, MH, JP
Mr LEE Man-bun, MH, JP

Opening Address

The Chairman welcomed all to the meeting. On behalf of the Council, she expressed deep sorrow over the death of Senior Inspector of Police LAM Yuen-yea who passed away while carrying out an anti-smuggling operation. The Chairman offered her deepest condolence to the officer's family and sent her regards to the three injured officers and wished them a speedy recovery. She also hoped the Police could apprehend the culprit as soon as possible.

2. DMS stressed that the Police were profoundly grieved by the tragic loss of Ms LAM and would provide all possible support to her family through this difficult time. The Police had always been committed to enforcing the laws of Hong Kong and had been fearless in the face of danger. She pledged that the Police would spare no effort to apprehend the smuggling syndicate.

[Post-meeting note: The Commissioner of Police has in October 2021 conferred the honorary title of Chief Inspector of Police (Posthumous) on the late Ms LAM Yuen-yea.]

I. Confirmation of Minutes of the Meeting held on 22 June 2021 (Open Part)

3. The minutes of the last meeting were confirmed without amendment.

II. Presentation on 'Vehicle Examination and Road Safety'

4. Following an introduction by SSP CAPO, SP Enforcement & Control (E&C) New Territories North (NTN), Mr Albert TSANG, gave a presentation covering the purpose, legal perimeter and procedures of vehicle examination.

5. SP E&C NTN assured Members that the Police had been proactively taking enforcement actions against vehicles that were suspected / believed not to be roadworthy by completing a Defective Vehicle Report Form ('DVRF') to compel the vehicle owner to produce his / her vehicle for examination by a Motor Vehicle Examiner of the Transport Department (TD) under Section 79 of Road

Traffic Ordinance Cap. 374 (RTO); or immediately detaining the vehicle for not more than 72 hours for such examination under Section 80 of RTO. During the presentation, he also highlighted that, amongst the 1,327 detained vehicles in 2021, 1,238 (93.3%) were confirmed to be defective after examination.

6. Upon Dr David LEE's enquiry about vehicle exhaust and means of reporting traffic complaints, SP E&C NTN explained that there were facilities to examine and measure the exhaust emitted at the vehicle examination centres. Members of the public could contact the Police's Regional Traffic Complaints Units for making traffic reports along with car camera footages, if available. The Police would investigate into the reports and initiate prosecution if an offence was detected and the driver was identified.

7. Hon Frankie YICK opined that given the time gap between the filing of DVRF and the examination under Section 79 of RTO, the vehicle owner could well fix the vehicle prior to the examination and alter it again after passing, making illegal modifications hard to combat. In this connection, Dr Daniel CHAN suggested that the TD could ask the vehicle owners to declare upon vehicle examination whether they had rectified any defects/illegal modifications before the vehicles were taken to an examination centre, which could serve as a pointer to the officers' capability in identifying defects during their exercise of authority under Section 79 of RTO.

8. In order to enhance officers' enforcement capability on the spot, Hon Frankie YICK also suggested that a vehicle specifications database should be stored in the officers' mobile devices for their immediate reference while on duty. In this regard, Mr Alex CHU suggested that training on identifying defects should be strengthened for frontline officers.

9. Prof Martin WONG enquired about the figures on offences related to illegal modification and suggested that the Police should proactively educate and promote public's awareness on illegal modification. In particular, Miss Mabel CHAN proposed that education effort should be targeted at drivers of goods vehicles via their respective trade associations. Ms Melissa PANG and the Chairman shared the view that the Police could combat illegal modifications of vehicles by taking actions against the garages which offered such services.

10. Addressing Dr Daniel CHAN's concern about the Police enforcement operations, SP E&C NTN assured the meeting that roadblocks were set up by the Police Traffic units to combat traffic offences extensively and regularly, including speeding, drink-driving and illegal modifications.

11. Mr Clement CHAN commented that the main contention of the complaints arising from the Police's towing of vehicles was whether the towing was justified. He opined that the police's contemporaneous and proper documentation on the suspected defects or modification could help refute any allegations of unnecessary use of authority. In this regard, SG (Atg) suggested that the use of 'Body Worn Video Cameras' could capture the suspected defects or modification at the scene and could be used as a piece of collaborative evidence when necessary. He also suggested that the TD should facilitate the receipt of photographic evidence from the public upon their reports of DVRFs.

12. SP E&C NTN replied that DVRFs filed by frontline officers would include detailed descriptions of suspected defects or modification found and these forms would then be screened by Regional Traffic units before being passed to TD. SSP CAPO stressed that officers were always required to properly document their decision to tow a vehicle and such decision had to be approved by a qualified sergeant who had attended the scene and examined the vehicle confirming such defects. He assured the meeting that all allegations and available evidence would be subject to CAPO's impartial investigation and IPCC's professional scrutiny.

13. DMS concluded that education on road safety had always been a police priority; the Police had sought to educate the public and improve road safety via various platforms including Road Safety Council, before resorting to taking enforcement actions or prosecutions which were carried out by professionally qualified Police staff. She thanked the Members for all the invaluable advice and suggestions.

14. The Chairman thanked the Police for the presentation and expressed appreciation for the Police's efforts in ensuring road safety.

III. Matters for Information

(a) CAPO's Monthly Statistics

15. SSP CAPO reported that in the first eight months of 2021, 942 Reportable Complaints ('RCs') were registered, one of which had arisen from the Fugitive Offenders Ordinance related ('FOO-related') public order events ('POEs'), representing an increase of 195 cases (26.1%) when compared with 747 RCs in the same period of 2020. There were 317 cases resolved by '*Expression of Dissatisfaction Mechanism*' ('EDM'), representing a decrease of 28 cases (-8.1%) when compared with 345 cases in the same period of 2020.

16. The 942 RCs comprised 875 minor complaints (92.9%) and 67 serious complaints (7.1%).

17. The 875 minor complaints comprised 510 cases of '*Neglect of Duty*' (58.1%), 344 cases of '*Misconduct/Impoliteness*' (39.3%), and 21 cases of '*Offensive Language*' (2.4%). When compared with the 603 cases in the same period of 2020, the minor complaints increased by 272 cases (45.1%).

18. The 67 serious complaints comprised 46 cases of '*Assault*' (68.7%), one of which had arisen from the FOO-related POEs, 6 cases of '*Threat*' (8.9%), 14 cases of '*Unnecessary Use of Authority*' (20.9%) and 1 case of '*Fabrication of Evidence*' (1.5%). When compared with the 143 cases in the same period of 2020, the serious complaints decreased by 76 cases (-53.1%).

19. Comparing the minor complaint figures with the same period in 2020, '*Neglect of Duty*' increased by 168 cases from 342 to 510 cases (49.1%), '*Misconduct/Impoliteness*' increased by 97 cases from 247 to 344 cases (39.3%) whereas '*Offensive Language*' increased by 7 cases from 14 to 21 cases (50%). When compared with the figures in the same period of 2019, '*Neglect of Duty*' decreased by 8 cases from 518 to 510 cases (-1.5%), '*Misconduct/Impoliteness*' increased by 3 cases from 341 to 344 cases (0.9%), whereas '*Offensive Language*' increased by 1 case from 20 to 21 cases (5%).

20. When compared to the relevant figures for the same period in 2020 and 2019, the allegation of '*Assault*' in 2021 decreased by 43 cases from 89 to 46 cases (-48.3%) and decreased by 58 cases from 104 to 46 cases (-55.8%) respectively, the allegation of '*Threat*' decreased by 4 cases from 10 to 6 cases (-40%) and decreased by 3 cases from 9 to 6 cases (-33.3%) respectively, the allegation of '*Unnecessary Use of Authority*' decreased by 24 cases from 38 to 14 cases (-63.2%) and decreased by 14 cases from 28 to 14 cases (-50%) respectively, whereas the allegation of '*Fabrication of Evidence*' decreased by 5 cases from 6 to 1 case (-83.3%) and decreased by 8 cases from 9 to 1 case (-88.9%) respectively.

(b) Statistics – Complaints Arising from FOO-related POEs

21. SSP SD CAPO updated the meeting on the figures of FOO-related complaints. As at 31 August 2021, there were a total of 1,948 complaints lodged by 9,140 complainants (COMs), including 617 RCs (31.7%) from 671 COMs and 1,331 NCs (68.3%) from 8,469 COMs.

22. The majority of RCs allegations, i.e. 359 (58.2%), were minor in nature comprising 187 ‘*Misconduct*’ (30.3%), 107 ‘*Neglect of Duty*’ (17.3%), 42 ‘*Impoliteness*’ (6.8%), 11 ‘*Rudeness*’ (1.8%), 11 ‘*Offensive Language*’ (1.8%) and 1 ‘*Police Procedures*’ (0.2%). There were a total of 258 (41.8%) serious allegations, including 114 ‘*Assault*’ (18.5%), 131 ‘*Unnecessary Use of Authority*’ (21.2%), 11 ‘*Threat*’ (1.8%) and 2 ‘*Fabrication of Evidence*’ (0.3%).

23. Amongst the 671 COMs of the 617 RCs, the Police had contacted 540 COMs (80.5%). 187 (27.9%) opted for ‘*Full Investigation*’, 156 (23.2%) opted for ‘*Withdrawal*’, 49 (7.3%) opted for ‘*Sub-Judice Procedures*’, 10 (1.5%) opted for ‘*Informal Resolution*’, 14 (2.1%) had yet to express their stances, and 124 (18.5%) were ‘*Not Pursuable*’. The remaining 131 COMs (19.5%) had not yet made any reply to the Police.

24. Hon Frankie YICK and Ms Sylvia LEE enquired whether there was a stipulated time frame for contacting complainants, beyond which a case could be concluded as not pursuable. They were particularly concerned that those complainants who failed to cooperate with CAPO’s investigation dragged on the complaints made by them. SSP SD CAPO assured the meeting that, although the IPCC Ordinance stipulated no time frame in this regard, CAPO would adhere to the established procedure in handling FOO-related complaints and endeavour to reach the complainants by sending them at least two letters and three phone calls. He explained that amongst the cases where complainants had yet made any response or expressed their stances, the majority had been classified as not pursuable with reports submitted to the IPCC.

25. The Chairman appreciated the Police’s effort in attempting to reach the complainants despite their uncooperativeness and emphasized that complainants should, upon lodging complaints, be advised to properly identify themselves and provide proper means of contact to facilitate CAPO’s timely investigation, including the security of evidence. DMS concurred that complainants’ cooperation would be vital in complaint investigation and she undertook to continue exploring means to improve the Police workflow.

(c) **Update on 52 Recommendations**

26. CSP C&IIB reported that the fifth progress report was submitted to the Chief Executive in September 2021, covering the completion of five recommendations [(10), (14), (36), (37), & (38)] and the introduction of seven improvement measures that were made between May and August 2021. So far,

37 out of the 52 recommendations were completed and altogether 69 improvement measures were implemented.

27. As regards the improvement measures, the Police had drawn up a list of consideration factors, together with a new real-time people counting software, to assist commanders to continuously assess risks and make swift and informed decisions for deployment and road opening as the event evolved.

28. Two more target-specific less lethal weapons i.e. pepper ball pistol and OC launcher with less collateral damages were ready for deployment; whereas a list of “DOs and DON’Ts” was prepared to minimise the possible risk during large-scale dispersal operations. Training packages with the application of new technology i.e. ‘StudioImmerxe 360’ and ‘Virtual Reality (VR) Complex’ would also be used to enhance officers’ command accountability and decision-making on the use of force in a more realistic virtual environment.

(d) **CAPO’s Criminal and Disciplinary Checklist**

29. SSP CAPO reported that relevant information had been provided to IPCC Members for their reference prior to the meeting. No question was raised under this item.

IV. Any Other Business

30. There being no other business, the meeting concluded at 1640 hours.

(Daisy CHIU)
Joint Secretary
Complaints and Internal
Investigations Branch

(Vincent SIN)
Joint Secretary
Independent Police
Complaints Council