

**128th MEETING OF
THE INDEPENDENT POLICE COMPLAINTS COUNCIL (IPCC) MEETING WITH
THE COMPLAINTS & INTERNAL INVESTIGATIONS BRANCH (C&IIB) HELD AT
THE IPCC SECRETARIAT OFFICE
AT 1535 HOURS ON THURSDAY 19 JULY 2007**

Present: Mr Ronny WONG Fook-hum, SC, JP (Chairman)
Dr Hon LUI Ming-wah, SBS, JP (Vice-chairman)
Mr YEUNG Yiu-chung, BBS, JP
Dr LO Wing-lok, JP
Mr Daniel CHAM Ka-hung, MH, JP
Dr Charles KOO Ming-yan, MH
Mr Edward PONG Chong, BBS, JP
Mr HUI Yung-chung, BBS, JP
Ms Priscilla WONG Pui-sze, JP
Dr Lawrence LAM Chi-kit, MH
Mr WONG Kwok-yan
Mrs Brenda FUNG YUE Mui-fun, Secy IPCC
Ms Angela HO, SGC IPCC
Mr Brandon CHAU, Deputy Secy IPCC (Joint Secretary)
Mr Michael B. DOWIE, DMS
Mr Alfred MA Wai-luk, ACP SQ
Mr Alan FAN Sik-ming, CSP C&IIB
Mr J.P. RIBEIRO, SSP CAPO
Mr CHEUNG Kin-kwong, SP CAPO HQ (Joint Secretary)

In Attendance: Mr Eddie WONG, SAS (PS)
Mr Henry CHAN, SAS (1)
Ms Fiona LI, SAS (2)
Mr Bernard KAN, SAS (3)
Miss Mary KWOK, AS (PS) 1
Mr MA Shun-kwong, SP CAPO NT
Mr Eddy TONG Chi-chung, CIP CAPO HQ
Ms Pallas CHAN Po-chu, CIP T9 CAPO NT
Ms CHAN Shuk-ming, SIP IPCC C&IIB
Mr Damon AU Wing-leung, SIP SUP CAPO
Mr Clement LEE Kwok-chung, SIP T3a CAPO K
Mr YIP Wing-lam, SIP T9b CAPO NT

Absent with Apologies: Hon Daniel LAM Wai-keung, SBS, JP (Vice-chairman)
Dr Hon Joseph LEE Kok-long, JP (Vice-chairman)
Prof Benjamin TSOU Ka-yin, BBS
Dr Michael TSUI Fuk-sun
Dr TSE Tak-fu, BBS
Mrs Helena YUEN CHAN Suk-ye
Mr Barry CHEUNG Chun-yuen, JP

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 19 JULY 2007 (Open Part)

2. The minutes of the last meeting (open part) were confirmed without amendment.

II CAPO'S CRIMINAL AND DISCIPLINARY CHECKLIST

3. CSP C&IIB informed the meeting that he had nothing special to highlight in relation to the checklist.

4. The Chairman noted that there were several cases on the checklist, namely A20, A22 and A26, in which the officers concerned were advised for failing to comply with the provision in the Force Procedures Manual to sign the letters sent to members of the public for the Commissioner of Police. He invited CAPO to comment on these cases.

5. CSP C&IIB replied that in accordance with the Force Procedures Manual, any correspondence sent to members of the public should be signed by a police officer for the Commissioner of Police. It had been noticed that there were several cases on the checklist where such requirement was not complied with. The issue would be included in the 'Matter of Interest' of the coming CAPO Monthly Report as well as in the 'Tips for Smart Cops' to remind officers, and CAPO officers would also highlight such requirement during their complaint prevention visits and talks to formations.

III CAPO'S MONTHLY STATISTICS

6. CSP C&IIB briefed the meeting that there were 185 and 236 complaints received in April and May 2007 respectively, representing a decrease of 23.2% (-56 cases) but an increase of 27.6% (+51 cases) when compared with the statistics of the previous months. The figure for March

2007 was 241 cases.

7. The number of 'Neglect of Duty' complaints received in April and May 2007 were 89 cases and 108 cases respectively, representing an increase of 4.7% (+4 cases) and 21.3% (+19 cases) when compared with the statistics of the previous months. The figure for March 2007 was 85 cases.

8. The number of 'Misconduct/Improper Manner & Offensive Language' complaints received in April and May 2007 were 41 cases and 53 cases respectively, representing a decrease of 46.8% (-36 cases) but an increase of 29.3% (+12 cases) when compared with the statistics of the previous months. The figure for March 2007 was 77 cases.

9. The number of 'Assault' complaints received in April and May 2007 were 39 and 50 cases respectively. They represented a decrease of 18.8% (-9 cases) but an increase of 28.2% (+11 cases) when compared with the statistics of the previous months. The figure for March 2007 is 48 cases.

10. In the first five months of 2007, a total of 1,065 complaints were received, representing an increase of 15.3% (+141 cases) when compared with 924 cases of the same period last year.

11. The total number of 'Neglect of Duty' complaints received in the first five months of 2007 was 462 cases. It represented an increase of 144 cases (+45.3%) when compared with 318 cases of the same period last year.

12. The total number of 'Misconduct/Improper Manner & Offensive Language' complaints received in the first five months of 2007 was 281 cases. It represented an increase of 20 cases (+7.7%) when compared with 261 cases of the same period last year.

13. The total number of 'Assault' complaints received in the first five months of 2007 was 211 cases. It represented an increase of 5 cases (+2.4%) when compared with 206 cases of the same period last year.

14. From the complaint figures for the first five months of 2007, no particular trend could be noted and CAPO would continue to monitor the situation.

15. The Chairman noted from page 6 of the CAPO's Statistics Report that the number of outstanding cases for the months of 2007 were much higher than those of the corresponding months in 2006 and he wished to know why there was such a big difference.

16. CSP C&IIB replied that according to the figures in hand, the number of complaints received in the first five months of 2007 were 238, 165, 241, 185 and 236. As could be seen, those outstanding cases would drop over time because the outstanding cases were those cases of which the

investigation required more time to complete. As time went by, the number of outstanding cases would gradually decrease. Hence, the more recent of those cases like in April and May 2007, the higher number of them would remain outstanding when compared with other months.

17. The Chairman further commented that the number of outstanding cases in May 2007 on page 6 of the CAPO's Statistics Report remained on the high side when compared with the number of the outstanding cases for the months in 2006 of which none of them was over 100. He wished to know why there were so many outstanding cases this year.

18. CSP C&IIB responded by saying that the figures of outstanding cases in 2006 reflected the situation of the cases as at 31 May 2007. The number of outstanding cases would drop gradually when more cases were completed and that was why the number of outstanding cases in 2007 was much higher than that of 2006.

19. The Chairman suggested that an explanatory note should be included in the report to explain what the figures meant because the difference between the figures this year and last year was too big.

20. CSP C&IIB undertook to put a footnote in the table to explain the source of the data and how that would evolve over time.

IV

A COMPLAINT CASE FOR DISCUSSION

21. The Secy/IPCC briefed the meeting that the case for discussion related to a request for disclosure of an officer's unique identification (UI) number during a late night call made to a member of the public. The complainants 1 and 2 (COMs 1 and 2) were a couple who engaged the victim (VTM) to carry out decoration work for their home. As COM 1 (i.e. the husband of COM 2) was dissatisfied with the work done, he disputed with VTM on the outstanding payment. On the material day, VTM called COM 1 purporting to chase him for the money. Following that, VTM received several phone calls between 2200 hours and 0034 hours from a male (Mr X), who claimed himself to be a triad member. Mr X warned VTM to be careful and not to bother COMs anymore. He also threatened that he would net VTM within two days for a settlement talk regarding the outstanding decoration fee. Frightened by the phone calls of Mr X, and having grave concern about his own safety and that of his family, VTM immediately made a report in person to the police station of District A at about 0057 hours. The Detective Sergeant (COMEE 1) and the Detective Police Constable (COMEE 2) of District A were responsible for handling VTM's report.

22. According to COM 2, COMEE 1 called COM 1 through the latter's mobile phone at about 0140 hours. When she answered the call, COMEE 1 claimed himself as belonging to Team 2 of the police station of

District A, and told COM 2 that a report had just been made to the Police regarding their outstanding decoration payment. He requested COMs to attend the police station instantly for enquiries. When COM 2 questioned the need of attending the police station in the small hours, COMEE 1 allegedly spoke in a threatening manner, “Do you live in YY Garden? I will come to visit you.” Aggrieved by the late night call of COMEE 1 and the way COMEE 1 treated her over the phone, COM 2 lodged a complaint comprising four allegations, amongst which COM 2 alleged that COMEE 1 should not have made a late night call (allegation (a) – “Misconduct”). Moreover, COM 2 claimed that she had asked COMEE 1 twice his UI number and surname over the phone, but the latter allegedly failed to identify himself in response to her specific request but only replied that “我係第二隊嘅” (i.e. “I belong to Team 2”) (allegation (b) – “Neglect of Duty”). In addition, COMs 1 and 2 were also dissatisfied with the way COMEE 2 treated them during a subsequent teleconversation on the same day and lodged a complaint comprising three allegations against COMEE 2 as well.

23. For allegation (a), CAPO’s view was that COMEE 1 had duly considered that making a late night call to COM 1 might disturb COMs. However, taking into account the serious nature of the offence of “Claiming to be a Member of a Triad Society” as reported by VTM, that Mr X could not be reached by phone at the material time, and the imminent danger faced by VTM if the latter was netted by a triad member in the next two days, CAPO considered COMEE 1’s late night call to COM 1 to facilitate prompt investigation of the crime case concerned was justified, and hence classified the allegation as “No Fault”.

24. As regards allegation (b), COMEE 1 claimed that he had informed COM 2 over the phone of COM 1’s involvement in a case, which was serious in nature and requested COM 1 to contact him. He also suggested to COM 2 that either COM 1 could come to the police station to meet his CID team, or he could meet COM 1 in his residence. COM 2 then became agitated and requested him to provide his UI number. He told COM 2 his surname, his rank and posting, and then COM 2 hung up the phone. CAPO considered COMEE 1’s reply to COM 2 at the material time was sufficient to identify himself as there was only one Sergeant with the said surname in CID Team 2 of District A. In the absence of any independent evidence, the allegation was classified as “Unsubstantiated”.

25. For all other allegations, as the accounts of COMs and COMEEs in respect of the relevant parts of their teleconversation differed from one another, in the absence of any corroborative evidence to prove the versions of either side, CAPO classified all such allegations as “Unsubstantiated”.

26. Upon examining the case, the IPCC had no objection to the classifications for allegation (a) and all other allegations, except the “Unsubstantiated” classification for allegation (b). The IPCC’s

observations are set out as follows –

- (a) COM 2 had specifically requested COMEE 1 twice to identify himself by his UI number and surname during the unexpected and unpalatable late night call from COMEE 1. It did not appear unreasonable for COM 2 to make such a request so as to ascertain whether it was a genuine call from the Police or a late night nuisance;
- (b) according to COMEE 1's statement taken for the complaint investigation, he was well aware that COM 2 was specifically asking for his UI number during their teleconversation;
- (c) COMEE 1, however, chose not to disclose his UI number. He claimed that he had informed COM 2 of his surname, rank and posting instead;
- (d) the IPCC did not see any just cause for COMEE 1 to withhold the disclosure of his UI number to COM 2; and
- (e) given that the subject matter of the complaint is about COMEE 1's failure to identify himself by providing his UI number as requested, and the said failure was sufficiently proved by COMEE 1's own version, the IPCC considered the "Unsubstantiated" classification for allegation (b) could not be agreed with.

27. In response to the IPCC's observations, CAPO provided further comments as summarized below to support the "Unsubstantiated" classification for allegation (b) –

- (a) neither CAPO nor COMEE 1 had ever queried that COM 2's request for COMEE 1's UI number was unreasonable at the material time;
- (b) there are no specific orders/guidelines in the Force governing how requests for disclosing the police UI numbers from members of the public should be handled, and every case must be judged on its own merits;
- (c) a request made by a member of the public could not automatically create a duty or obligation dictating an officer's action in response to that particular request when there are no particular orders/guidelines obliging an officer to follow a set course of action;

- (d) as a general principle, police officers should provide sufficient information that could establish their identities to the requestor. COMEE 1's reply to COM 2, which covered his surname, rank and posting, was considered sufficient by CAPO for COM 2 to establish COMEE 1's identity, even though his police UI number was not disclosed, as there was only one Detective Sergeant with that particular surname in the police station of District A, and the CID Team concerned is also a small unit;
- (e) it is a common practice for police officers above the rank of Sergeant and also crime officers, who do not wear uniform and badges of ranks/UI numbers, to identify themselves by their surnames, ranks and postings. CAPO did not consider COMEE 1 had breached any orders/guidelines, nor practice in the instant complaint; and
- (f) further clarification was made by CAPO with COMEE 1. The latter recalled that apart from his UI number, COM 2 had also asked him for his surname. In view of the supplementary information provided by COMEE 1, CAPO considered COM 2's request could not be regarded as totally ignored as COMEE 1's version at least showed that he had provided his surname, which was part of the request made by COM 2.

28. Having examined CAPO's further comments, the IPCC maintained its reservation on the "Unsubstantiated" classification for allegation (b) for the following reasons –

- (a) where a member of the public asked a police officer to identify himself in the course of his duty with no specific request for his UI number, it might be acceptable for the officer concerned to identify himself according to the Force's common practice, e.g. to identify himself by his surname, rank and posting instead of his UI number, if the officer was a crime officer or an officer above the rank of Sergeant;
- (b) in the instant case, COM 2 had specifically requested COMEE 1 to identify himself by his UI number and surname during an unexpected and unpalatable late night call. It means that only by obtaining COMEE 1's UI number and his surname would COM 2 consider the information adequate for her to establish the police identity of COMEE 1 in the circumstances;

- (c) as CAPO had never queried that COM 2's request was unreasonable, the IPCC did not see any sanctity for COMEE 1 to withhold the disclosure of his UI number, which remains a unique identifier of COMEE 1's police status, upon COM 2's repeated and unequivocal requests;
- (d) for a straightforward and reasonable request as this, it would be difficult to accept that a police officer, being a public servant, was entitled to withhold the disclosure of his UI number upon the request of a member of the public simply because there are no orders/guidelines in the Force obliging him to disclose. Besides, the IPCC did not see any practical value to put orders/guidelines in place for officers to handle a simple and straightforward request like the instant request, unless it was the Force's policy that a police officer was obliged to disclose his UI number only in specific circumstances;
- (e) one of the reasons for CAPO to consider COMEE 1's reply adequate was that there was only one Detective Sergeant with that particular surname in the police station of District A, and that the CID Team concerned is also a small unit. However, there was no evidence showing that COM 2 was as familiar with the staffing position and size of the CID Team concerned as CAPO, nor was it reasonably expected that COM 2 should so familiarize herself in this respect. Without the benefit of such knowledge, COMEE 1 could not be regarded as having identified himself fully on demand of COM 2 by withholding the disclosure of his UI number; and
- (f) taking into account COMEE 1's version which indicated that he had not totally ignored COM 2's request at the material time as he had at least provided his surname, which was part of COM 2's request according to the versions of both sides in the complaint, but not his UI number, it would be more appropriate to classify allegation (b) as "Not Fully Substantiated" instead of "Unsubstantiated".

29. Mr Daniel CHAM Ka-hung commented that when a member of the public made enquiry with a police officer regarding his police identity, on top of the UI numbers, it could be made as a routine for police officers to disclose their full names as UI numbers, like telephone numbers, were not easy to be remembered. In the instant case, though there was only one officer with such surname, it was not a sufficient reason for not disclosing the full name. Taking himself as an example, there was only one District

Councilor with the surname 'CHAM', but still he would identify himself by his full name when communicating with various government departments or complainants in the hope that the opposite parties knew exactly who he was. Numbers were difficult to be memorized and it would be better for officers to disclose their full names as it would be more user friendly.

30. CSP C&IIB replied that CAPO could appreciate the dissatisfaction of the complainant for receiving a late night call from the police. However, it was hoped that the complainant could also appreciate that the concerned officer was at the time handling a triad-related case and there was a need for the officer to make the late night call to the complainant. With regard to the complainant's request for the officer's UI number, although the request was not considered unreasonable, CAPO was of the view that if members of the public had any doubts about the identity of any police officer, they should call the police unit concerned for clarification. Of course, the more information a member of the public could provide, the easier the identification of a police officer could be done. Different situations might have different needs and so there was no order in the Police General Orders to require officers what information they should provide. Mr CHAM's suggestion to require officers to disclose their full names when they came into contact with members of the public would be brought to the attention of the policy unit concerned for consideration.

31. Dr LO Wing-lok enquired that while it was mentioned that the correct procedure to verify a police officer's identity was to call the police station, did the concerned officer clearly inform the complainant of that correct procedure.

32. CSP C&IIB replied that according to the information in hand, the complainant had not requested the officer concerned to provide that kind of information. Therefore, it was uncertain as to why the complainant requested the officer concerned to provide his UI number.

33. Dr LO Wing-lok further commented that it was seldom for a person to receive a late night call from the police. The person receiving the call would become very anxious and a professional police officer should have the responsibility to tell the person the correct procedure to clarify his police identity because members of the public would not know it. While CSP C&IIB mentioned that such information would be provided if the person asked for it, he was of the view that members of the public simply did not know how to ask. He hoped that in similar situations in future, an officer should clearly inform the person concerned of the correct procedure.

34. CSP C&IIB replied that in accordance with the information in hand, the complainant had not specifically revealed if she had doubts about the officer's police identity during the telephone conversation before she hung up the phone, and so the officer had no chance to explain the procedure.

35. Dr LO Wing-lok further commented that the case was a typical example of 'police helping police'. While CSP C&IIB had explained that the information provided was sufficient as there was only one sergeant with the same surname in that police station, he was of the view that this was only internal information known to the police, and members of the public were unable to know about such information. This reflected that the investigation was conducted from the police perspective. He thought that it was unfair to assume that members of the public on receiving late night calls could pose such kind of question. There should be a procedure requiring officers to advise the person on the phone in the first instance as to how he could clarify their police identities.

36. CSP C&IIB replied that in respect of the suggestion, it was hoped that more channels could be explored to tell the public how they could clarify the identity of a police officer when they had doubts about the identity of a police officer, especially on the telephone. This might be done through the mass media and more education could be done to let the public know how they could clarify the identity of a police officer.

37. Dr LO Wing-lok further queried that in cases involving two parties where one party was aggrieved with the other party, and one of the parties reported to the police that he was threatened by a triad member believed to be under the instruction of the other party, like the instant case, how the investigator would decide if the report was not made with the intent to exert pressure on the other party but did have genuine evidence to show the existence of triad element and that the one who made the report was really threatened. He wished to know on what basis the investigator made his judgment to decide calling the other party.

38. CSP C&IIB responded by saying that the investigator could not assume that the one who made the report made use of the police to force the other party to repay the debt. The police had to maintain a neutral stance to investigate all cases impartially to establish if criminal elements were involved. The police would not make any assumption before the completion of the investigation.

39. Dr LO Wing-lok further commented that he fully agreed that the police should be impartial. The party who made the report in person to the police station (i.e. the victim) in the instant case was able to know how the case handling officer looked like as well as his name and UI number. Therefore, if the other party (i.e. the complainant) was to be treated equally, she should also be given the same information on the phone.

40. CSP C&IIB explained that it was for that reason the investigator concerned had invited the complainant to the police station to clarify the matter. Had the complainant turned up as invited, she would have clarified the identity of the concerned officer.

41. Dr LO Wing-lok responded by saying that the complainant basically had no means to confirm if the caller was indeed a police officer and the police officer concerned had not advised her of the way to establish the caller's police identity.

42. CSP C&IIB replied that it could not be ascertained if the complainant had doubts on the officer's police identity and requested the officer to provide his UI number. Before the officer could clarify this matter, the complainant had hung up the phone and therefore the officer was unable to clarify what information the complainant wanted to know. He reiterated that if members of the public had doubts about the identity of a police officer, they should call the police station or the police hotline 25277177 for clarification.

V

ANY OTHER BUSINESS AND CONCLUSION OF THE MEETING

The Gun-dropping Case

43. The Chairman briefed the meeting that the Council had received CAPO's investigation report of the instant complaint on 2007-06-18, which involved a police officer having dropped his gun whilst performing duty on 2007-02-09. The Council considered the instant complaint to be very serious in nature and that the public had grave concern about the case. Therefore, the Council would like to discuss the case at the Open Part of the next meeting to be held on 2007-09-20 and would liaise with CAPO to obtain more information about the case.

44. CSP C&IIB replied that CAPO would consider the Council's suggestion to see if the case could be discussed at the next meeting.

45. There being no other business, the meeting concluded at 1620 hours. The next meeting will be held on 20 September 2007.

(CHEUNG Kin-kwong)
Joint Secretary
Complaints and Internal
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(Brandon CHAU)
Joint Secretary
Independent Police
Complaints Council