

**Speech by Mr Robert C. Tang, SC, JP
Chairman, Independent Police Complaints Council**

The Honourable Mrs. Chan, distinguished guest speakers, ladies and gentlemen. Welcome to the IPCC seminar. Your presence today underlines the importance of the subject under discussion. This seminar demonstrates the importance which the IPCC attaches to a “Fair Just Open” police complaints system.

Law and order is essential to the stability and prosperity of Hong Kong. However, law and order on its own is not enough. Many totalitarian states have law and order too. What is required to maintain stability and prosperity in a pluralistic society like Hong Kong, is law and order under the rule of law. The rule of law requires that no one is above the law. Police officers, like their fellow citizens, are equally subject to the law.

There cannot be law and order without a well disciplined and law abiding police force. Primarily one has to rely on the police force to maintain discipline. However, in the case of complaints against the police by a member of the Public, there must be a credible police complaints system to ensure that the complaint is dealt with properly and fairly.

In Hong Kong, the investigation into complaints against the Police is conducted by the police itself. It is handled by the Complaints Against Police Office (CAPO), which is an integral part of the Police Force.

The IPCC, which is an independent body, is established to monitor the investigations conducted by CAPO into such complaints to ensure impartiality and thoroughness. When examining the investigation reports, the IPCC can ask CAPO to clarify areas of doubt or request CAPO to re-investigate a complaint if it is not satisfied with the investigation results. If the IPCC is still not satisfied with CAPO’s conclusions, it may draw the case to the Chief Executive’s attention with its own recommendation. In exceptional cases and for the removal of doubt or ambiguity, the IPCC can also interview witnesses including the complainants, the complainees and professionals such as forensic pathologists for expert advice.

Although the IPCC plays no part in the actual investigation which is the responsibility of CAPO alone, IPCC members and observers, through the IPCC Observers Scheme, can conduct scheduled and surprise observations of CAPO investigation in person. An IPCC observer, as its name explains, does no more than to observe the investigation, e.g. statement taking from a complainant, a witness or a complainee. The IPCC observer will then report to the IPCC his opinion of the interview, in particular, whether in his opinion, the interview was full and fair.

The present police complaints system was developed over the last 30 years. Since 1974, public complaints against the Police, including civilian

members of the Force, have been investigated by CAPO. In 1977, a non-statutory body, the UMELCO Police Group (UPG), comprising 6 unofficial members of the Executive and Legislative Councils, was appointed to oversee the investigation work of CAPO. In 1986, the Umelco Police Group was dissolved and replaced by the Police Complaints Committee (PCC). In 1994, the PCC was renamed Independent Police Complaints Council (IPCC) to emphasize its independent status. The IPCC now comprises a Chairman, 3 Vice-Chairmen (who are all members of the Legislative Council) and 14 members appointed by the Chief Executive. The Ombudsman (or her representative) services as an ex-officio member. The IPCC members are leading members of the community. They include politicians, business executives, doctors, lawyers, educators, management consultants and administrators.

The IPCC Observer Scheme was introduced in April 1996. Its membership was substantially increased in September 1999 and again in April 2000. There are now 76 observers (inclusive of the IPCC members).

I understand the Administration has plans to make the IPCC a statutory body. This is therefore an appropriate time to take stock and to look at the way forward.

Some of the questions often raised regarding the present system are: whether investigation of complaints against the Police should be conducted by the Police? What model of police complaints system is best for Hong Kong? What are the pros and cons of giving the IPCC investigative power?

These are all issues which require public debate and consultation. They must be decided by the Administration, the community and the Legislative Council in due course.

What is the best system? That must depend on local circumstances. First and foremost, it is necessary for one to take a view of the Police Force as a whole and its management in particular.

In Hong Kong, we need a strong police force. We need a disciplined force with high morale. I believe good discipline is indispensable to good morale. Public support is also essential for morale. The Public will only support a well-disciplined and law abiding police force.

Now misconduct by policemen can never be totally eliminated. There are rotten apples in every profession. The Police is no exception. But what is the corporate attitude of the Police Force towards such misconduct? Do we have a police force which is determined to stamp out misconduct amongst its rank?

We in the IPCC are keenly aware of the importance of the self driven determination by the police force to maintain discipline. We watch closely for any sign of the weakening of such determination. If the IPCC does not

believe that the police force has zero tolerance for police misconduct, we will be the first to speak out.

But, good intentions are not enough. How is the Police Force actually coping with the problem? Are they dealing with the problem effectively?

The IPCC views any complaint seriously. However, of greatest concern are complaints of police brutality and fabrication of evidence. These are complaints which are criminal in nature.

Are there suspicious deaths in custody? Are there evidence of police brutality? Are there fabrication of evidence?

These are closely watched by us. Any death in custody will also be the subject of a public inquest. The IPCC keeps a very close tab on any allegation of injuries suffered at the hand of the Police.

Of course, the IPCC is not the only monitoring body. In Hong Kong, we have a strong and independent media. We have an independent Judiciary. We have an independent legal profession. We have vocal human rights groups. They are all essential to a civilised society. The crime-related complaints are not just monitored by the IPCC. In most cases, the allegations are dealt with by the Court. This is where an independent Judiciary and an independent legal profession come in.

Also, little will escape the attention of our strong and independent media. They will not permit any misconduct to be overlooked. Strong and independent media is a very important component of our society.

The burning question still remains. Is investigation by the police of the police acceptable? What about the question of perception? Isn't there the unavoidable suspicion of bias? These are legitimate concerns and must be appropriately addressed.

One complaint about the present system is the low substantiation rate. Is the low substantiation rate the result of the police investigating complaints against itself? How does the substantiation rate for fully investigated cases in Hong Kong compare, say, with New York, where the investigation is done outside of the Police?

Here, in Hong Kong, many complaints are unsubstantiated because they involve a one against one situation. For example, a citizen complains of impoliteness by a policeman which is denied. The rule of law means that there must be fair play for the complainant as well as the complaine. It protects the complainant as well as the complaine. One cannot use a different standard because the complaine happens to be a policeman. In this kind of situation is a low substantiation rate avoidable?

Fortunately, many of the more serious complaints are resolved in Court. For example, allegations of forced confession. They are normally dealt with by the Court after hearing evidence from all relevant witnesses. However, sometimes, Court proceedings are inconclusive e.g. when the complainant who is the defendant in the criminal proceedings is given the benefit of the doubt. But when the matter in turn is looked at as a complaint against the police, the complainers are the accused and the evidence would have to be sufficiently strong before the complaint can be substantiated.

Occasionally there are false and tactical complaints. These complaints are made tactically in order to put pressure on individual policeman or in an attempt to stop a prosecution. One must not under-estimate the stress and anxiety which a complaint can have on police officers. But policemen must not allow complaints to detract them from performing their duties

The above are some matters which the Community will have to weigh carefully when it comes to decide what is the best system for Hong Kong.

I spoke of a low substantiation rate and the difficulty of sustaining a complaint in a one against one situation. Does it mean one should not bother to complain? No. Every complaint is taken seriously and, is investigated thoroughly. The Community will have the Police Force it deserves. It is the duty of the every member of the Community to show that he too has zero tolerance for any police misconduct.

For a police complaints system to work, we need a police force which is determined to maintain the highest standard. We need a Community which insists on the highest standard, reinforced by an ever vigilant public media and human rights groups. We need an independent Judiciary which regards itself as the rightful guardian of human rights. The IPCC takes its monitoring role seriously. The IPCC believes that it is its duty to help weed out misbehaving police officers.

I spoke of local circumstances. But, there is also much Hong Kong can learn from overseas experience.

For many years, Hong Kong has sent a delegation to participate in the annual international conference of the International Association of Civilian Oversight for Law Enforcement (IACOLE). Our delegates have brought back to the IPCC valuable information gathered through the sharing of experience and exchange of views at these conferences.

This seminar provides a good opportunity for us to invite distinguished speakers who had spoken at the IACOLE conferences in the past to visit Hong Kong so that we can hear directly from them their experience and knowledge of civilian oversight of police bodies.

We are most honoured to have here today Mr. Mark Gissiner who was the president of IACOLE from 1995 to 1999. He is now President and CEO of the Police Accountability Consulting Group. Mr. Gissiner has a wealth of experience in civilian oversight of law enforcement. We also have Dr. Barry William Perry, Ombudsman of Victoria, Australia and Mr. Frank Wohl, Chair of the New York City Civilian Complaint Review Board (The New York Board) to introduce to you two models that have different degrees of investigative power.

Last but not least, Mr. Tsang Yam Pui, Commissioner of police, will give us an insight into the Hong Kong Police Force's attitude to the Police Complaints System.

I am sure that the issues raised at this seminar will help the Community decide what is the best system for Hong Kong. I look forward to a successful and stimulating seminar today.