

## ***The Police Complaints System in Hong Kong: Where Are We Heading?***

### **Speech of Guest of Honour at Independent Police Complaints Council Symposium on 27 May 2014**

#### **The Honourable Mr Justice Tang PJ**

Mr Chairman,  
Ladies and Gentlemen,

The Complaints Against Police Office (CAPO) was established in 1974 by the Commissioner of Police. It was not a co-incidence that the Independent Commission Against Corruption (ICAC) was established in the same year.

The ICAC was of course a fully independent body. It took over the investigation of police corruption from the unlamented anti-corruption branch of the Police.

The idea that investigation into non corruption complaints against the Police should be carried out by the Police itself was always controversial.

That is why in 1977, the Commissioner invited a sub-committee of the Unofficial Members of the Executive and Legislative Councils (UMELCO) to monitor CAPO's complaint investigation. The sub-committee was chaired by a Member of the Executive Council and its Vice Chairmen were made up of Members of the Legislative Council.

In 1986, the IPCC was established to take over from the UMELCO Police Group. Its connection with the Executive and Legislative Councils was maintained. Until 2000, the Chairman was always a Member of the Executive Council and its Vice Chairmen, Members of the Legislative Council.

My immediate predecessor, Mr Denis Chang SC was both a practicing senior counsel and a Member of the Executive Council when he was appointed Chairman.

Beginning with my appointment in 2000, the Chairmen have been senior counsel in private practice. However, the 3 Vice-Chairmen have continued to be drawn from the Legislative Council.

Members of the IPCC have always been leading members of the community.

Throughout the years, efforts have been made to improve public confidence in the impartiality of CAPO's investigation. The introduction of the Observers Scheme was an important step. As the 2012/2013 report explained: "The Observers Scheme was introduced in 1996 to strengthen the IPCC's monitoring function. Under the scheme, Observers appointed by the Secretary for Security may attend interviews and observe the collection of evidence in connection with CAPO's investigation of Reportable Complaints." Observation is not confined to Observers, Members of the IPCC can also participate. When I became familiar with the working of the Observers Scheme, any doubt I had about the impartiality of CAPO was greatly reduced. I can say that during my years with the IPCC I had no reason to doubt CAPO's impartiality. Of course, reality and public perception may differ. What can be done to improve public perception is a continuing quest. I hope this Symposium will bring forth many useful ideas to strengthen the IPCC, in its work as well as in public perception.

The idea that complaints against the police should not be investigated by the Police itself is a powerful one. Continuation of the status quo may be justified but, it should not to be taken for granted. No doubt, the Symposium will discuss the reasons for and against the retention of the status quo.

Now, when there is disagreement between CAPO and the IPCC on the disposal of a complaint, a report will be made to the Chief Executive. This does not happen very often but has happened before. Maybe, the Symposium will identify and examine the reasons for this practice and see whether any change is desirable.

I mentioned the establishment of CAPO and the ICAC in 1974. It may come as a surprise to many here that even as late as 1974, some people believed 好仔唔當差 (a good man will not become a policeman). Fortunately, those days are long gone. The police force has improved beyond recognition. And not just the Police, it would not be fair to single out the Police, I should say Hong Kong generally has improved beyond recognition. Anyone who had used a public hospital or dealt with any government department or official in those days, will know how much things have improved. In those days people were unaware of their rights. The Hong Kong Bill of Rights was in the distant future. Universal values, human rights, democracy, even the rule of law, were not seriously taught at school. Now, they are our most cherished values. Schoolchildren know them. We live and breathe them. They are guaranteed by the Basic Law and are jealously guarded by everyone.

Also, now, the rank and file of the Police are made up of men and women who are well educated and dedicated to serving the public. They share our values. The stigma of the past has been eradicated. I think we have a police force second to none. Of course, that does not mean that there are no bad apples. But I do not doubt the determination to root them out. IPCC's yearly reports confirm that. It is fair to say that the Police in Hong Kong enjoy a hard earned reputation for their professionalism and dedication.

However, in your recent report, you have identified new areas of concern. You said: "the public is most concerned about perceived abuse of power by the Police and the way some public order events are handled" and "dissatisfaction over police handling of major public order events is more widespread nowadays."<sup>1</sup>

You also said: "Controversy about the neutrality of the Police has been a hot topic in public discussions." That explains why "IPCC Members attended the 1 July procession to gain a better understanding of the police handling of large-scale public order events (POE)."

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<sup>1</sup> This and other quotations are from the Report of The Independent Police Complaints Council 2012/13.

I believe the transformation of the IPCC “from a back-seat review and monitoring body to a multi-faceted independent police complaints oversight organization.”, as well as your commitment “to working together with the Police and other stakeholders to identify measures to improve the smooth handling of major public order events” is significant and timely. It is a laudable aim to promote co-operation between organisers of public events and the Police and ensure the peace and order of public demonstrations, for so long, a matter of deserved civic pride in Hong Kong.

Many important topics will be covered in this Symposium. In the first two sessions, you will examine the current police complaints system in Hong Kong as well as to consider it from an international perspective. When I said the Hong Kong Police is second to none, I was not complacent. I recognise that the job of a policeman is not an easy one. I know that police forces in free societies are subject to tremendous pressure and that they, just like the Hong Kong Police, are striving hard to improve. I do not doubt the sincerity or the strong desire to improve. The sharing of experience should lead to mutual improvement.

In the third session, you will discuss the important subject of “the balance between police powers and civil rights”. The continued success of Hong Kong depends on striking a proper balance. Any doubt, even in perception, about the neutrality of the police needs to be seriously addressed. The new phenomena of rival demonstrations require special attention and clear demonstration of equal treatment. Constructive suggestions from the Symposium will be invaluable.

Mr Chairman, you will step down in June after serving the customary 6 years. You can look back at your record with pride. You have served with energy, courage and judgment. You have rightly perceived the new and important role which the IPCC can play in keeping a proper balance between public expression and public order. I hope your successor will serve with equal success and enjoy the same reputation for fairness and fearless integrity.

I wish the Symposium lively discussions and lots of good insights.

Thank you.