

Independent Police Complaints Council
Report (Interim) on Complaint Cases
Arising from the Visit by the Vice Premier Mr. LI Keqiang

Part I - Overview

Background

1.1 Between 16 and 18 August 2011, the Vice Premier (“**VP**”) of the State Council of the Central People’s Government, Mr. LI Keqiang, visited Hong Kong. The VP stayed at the Grand Hyatt Hong Kong (“**the Hotel**”) in Wanchai. During his stay, the VP attended the following official functions:-

- i) Visiting a family at Laguna City in Kwun Tong in the afternoon on 16 August 2011;
- ii) Visiting the Hong Kong Housing Authority Headquarters (“**HKHAH**”) in Homantin around 1600 hours on 16 August 2011;
- iii) Visiting the Tung Wah Group Hospital Wong Cho Tong Social Service Building (“**WCT Building**”) in Homantin around 1500 hours on 16 August 2011;
- iv) Attending a welcome dinner hosted by the Government of the Hong Kong Special Administrative Region at the Hotel in the evening on 17 August 2011;
- v) Attending The University of Hong Kong Centenary Ceremony in the morning on 18 August 2011; and
- vi) Visiting the New Central Government Complex (“**CGC**”) at Tamar in the afternoon on 18 August 2011.

1.2 For the purpose of protecting the VP, the Hong Kong Police (“**the Police**”) conducted security operations at all the above venues and along the related motorcade routes.

1.3 A number of local journalists and protestors were of the view that the security measures adopted by the Police were unnecessarily tight and excessive and the locations of the Designated Press Area (“**DPA**”) and Designated Public Activity Area (“**DPAA**”)¹ were too far away from the venues of the events, making it difficult for reporters to carry out their duties and protestors to express their opinion to the VP. A number of Hong Kong citizens were also inconvenienced by the security arrangements.

1.4 As a result, 22 complaints were received by the Complaints Against Police Office (“**CAPO**”) of the Police, 16 of which were categorized as Reportable Complaints² involving 40 separate allegations with the remaining 6 as Notifiable Complaints³ for reason that the complainants (“**COMs**”) of these 6 complaints⁴ were not directly affected by the alleged police conduct.

1.5 On 1 September 2011, in view of the public interest in these 16 complaints, IPCC decided that the CAPO investigation into these cases should be monitored and examined by the Serious Complaints Committee (“**SCC**”) of the IPCC.

¹ DPA is an area set up for reporters to provide news coverage of an event of the protected political dignitary, whereas DPAA is an area designated for protestors to make their protest.

² It is the purview of IPCC to observe, monitor and review CAPO’s handling and investigation of Reportable Complaints, but not Notifiable Complaints. According to section 17(1) of the Independent Police Complaints Council Ordinance (**IPCCO**), CAPO must, after the investigation of a Reportable Complaint, submit to IPCC an investigation report. According to section 9, CAPO only needs to submit to IPCC at regular interval a list of Notifiable Complaints, but CAPO’s subsequent handling and investigation of Notifiable Complaints will be outside the purview of IPCC.

³ CAPO may categorise a complaint as a Notifiable Complaint if it considers the complaint vexatious or frivolous or not made in good faith or if the complaint is made by a party not directly affected by the police conduct. CAPO has to inform IPCC of the reasons for the categorisation.

⁴ Details of the 6 Notifiable Complaints are given at Appendix 1.

1.6 On 12 September 2011, the Security Panel of the Legislative Council (“LegCo”) passed a motion to request the IPCC to provide LegCo with a report on the complaints emanated from the VP’s visit. The Security Panel indicated that the report provided to LegCo would be placed in the Library of LegCo and made available to the public.

Overview of the Complaints

1.7 Between September and October 2011, CAPO submitted to IPCC reports on 10 complaints. CAPO further submitted reports on 4 complaints in mid-December 2011 and 2 complaints on 20 February 2012.

1.8 The table at Appendix 2 gives an overview of the 16 complaint cases, their subject matters, CAPO’s handling / classification and IPCC’s assessment. The subject matters of the complaints are as follows: -

<u>Subject Matter of Complaint</u>	<u>Number of Cases</u>
Closure of footbridge	4
Clearance of pedestrians	2
Security arrangements at HKU	1
Execution of Police Powers and location of DPAA	5
Execution of Police Powers	3
Location of DPA	1

1.9 These 16 complaints were handled by CAPO in the following manner:-

<u>CAPO's Handling</u>	<u>Number of Cases</u>
<u>Full Investigation</u>	<u>4</u>
<u>Without Full Investigation</u>	<u>11</u>
i. Not Pursuable ⁵	5
ii. Withdrawn ⁶	1
iii. Informally Resolved ⁷	5
<u>Pending Full Investigation</u>	<u>1</u>
Sub-Judice ⁸	1

IPCC Monitoring

1.10 As stated in paragraph 1.5 above, the CAPO investigation into these complaint cases were monitored and examined by the SCC.

1.11 During CAPO investigation, IPCC Observers⁹ attended / observed 106 out of the 109 (i.e. 97%) interviews / collection of evidence in relation to the 16 Reportable Complaints arising from the visit of the VP.

1.12 Having examined the reports submitted by CAPO, SCC raised queries with CAPO in respect of the complaints on the following issues:-

- i) IPCC disagreed with CAPO's proposed classification in relation to a number of the allegations for reason that CAPO had not put forward

⁵ See Appendix 3 for definition.

⁶ See Appendix 3 for definition.

⁷ See Appendix 3 for definition.

⁸ Sub-Judice means "under judicial consideration but not yet decided". For a Sub-Judice complaint, investigation would be suspended until the conclusion of the judicial matter.

⁹ Under the IPCCO, Observers appointed by the Secretary for Security may attend interviews and observe the collection of evidence in connection with CAPO investigation of reportable complaints.

sufficient information and justification to support the classification.

- ii) IPCC was of the view that the complainees (“**COMEES**”) of some complaints should be the senior officers who were in charge of the security operations rather than frontline officers who carried out instructions in the security operations, and therefore CAPO should list those senior officers as COMEES.
- iii) IPCC considered that although some COMs had not made a written statement, they had provided CAPO with sufficient information for conducting a full investigation in which CAPO could come to definite findings of the complaints; therefore, CAPO should fully investigate those cases rather than classifying them as “Not Pursuable”. IPCC requested CAPO to provide the relevant Operational Orders¹⁰ to facilitate IPCC to understand the exact instructions given to frontline officers and assess the rationale and justifications for police actions in the security operations.
- iv) IPCC also requested CAPO to furnish information about the security arrangements and locations of the DPAs and DPAAAs for the visits of other political dignitaries on previous occasions for comparison with the security arrangements for the VP’s visit.
- v) IPCC requested CAPO to arrange senior police officers who planned and executed the security operations in Central Police District, Wanchai Police District, and Homantin Police District, where a number of complaints arose, to attend IPCC interviews to explain the actions taken by them in the respective security operation.

1.13 For a chronology of the monitoring actions taken by IPCC, please see Appendix 4.

¹⁰ Operational Orders are documents giving instructions to frontline police officers on the execution of their duties in an operation.

CAPO Response

1.14 CAPO accepted some of SCC's comments in some cases but maintained its stance on some others (for details, please see Part II and Part III). CAPO has not yet agreed to provide IPCC with the requested Operational Orders as CAPO is concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future. CAPO provided extracts of the Operational Order which dealt with the closure of footbridges and furnished information about the locations of the DPAs and DPAAAs in the vicinity of the Hotel in connection with previous visits by other political dignitaries. CAPO also arranged the following officers to attend IPCC interviews¹¹ individually to explain the actions taken by them in the respective security operation:-

- i) a Senior Superintendent of Very Important Person Protection Unit (“VIPPU”);
- ii) a Chief Inspector of VIPPU;
- iii) a Senior Superintendent of Kowloon City Police District;
- iv) a Senior Superintendent of Wanchai Police District;
- v) a Senior Inspector of Wanchai Police District; and
- vi) a Superintendent of Central Police District.

1.15 Some basic information on planning a security operation can be found at Appendix 5.

¹¹ Under section 20 of the IPCCO, IPCC may, for the purpose of considering a report submitted by CAPO, interview any person who is or may be able to provide information or other assistance to IPCC in relation to the report.

Reporting to Chief Executive and Legislative Council

1.16 At an in-house meeting held on 17 January 2012, IPCC Members agreed that a report should be submitted to the Chief Executive (“CE”) and made available to LegCo.

1.17 IPCC has critically examined the 16 reports submitted by CAPO and scrutinized the handling of the complaints. IPCC has altogether interviewed 6 senior police officers and 2 COMs pursuant to section 20 of the Independent Police Complaints Ordinance (“IPCCO”). As a result, IPCC has endorsed CAPO’s findings in 9 of the complaints.¹² IPCC has also exercised its power under section 8(1)(c) of the IPCCO¹³ to look into the security arrangements for the VP’s visit from a holistic point of view and the study is still ongoing.

1.18 This Interim Report highlights the monitoring, review and examination of CAPO investigation into the 16 complaints. Details of each case, CAPO enquiries and their results, and the monitoring and conclusion of IPCC are given in Part II of this Interim Report. An overall evaluation of CAPO investigation and findings will be delineated in Part III of this Interim Report.

1.19 Following this Interim Report and upon receipt from CAPO of further information on the relevant security arrangements as well as the related Operational Orders, a Final Report will be submitted to CE and made available to LegCo and the public, to address the appropriateness of the security arrangements, in terms of the locations of the DPAs and DPAAAs, handling of protestors, clearance of pedestrians and closure of footbridges etc., and whether

¹² See Appendix 2 for the 9 endorsed complaints.

¹³ Under section 8(1)(c) of the IPCCO, IPCC has the function to identify any fault or deficiency in any practice or procedure adopted by the police force that has led to or might lead to reportable complaints, and to make recommendations (as the IPCC considers appropriate) to the Commissioner of Police or CE or both in respect of such practice or procedure.

police powers were properly exercised. It is hoped that the Final Report will make recommendations for better planning and execution of future security operations. Outstanding matters in relation to the 16 complaint cases that have not been resolved in this Interim Report and any other relevant issues which may come to light in the examination of the 16 complaint cases and are within the IPCC purview will also be addressed in the Final Report.

Part II – The 16 Reportable Complaints

Case 1 – Closure of Footbridge to Hong Kong Convention and Exhibition Centre

Complaint

2.1.1 COM-1¹⁴ worked at the Hong Kong Convention and Exhibition Centre (“HKCEC”). Around 0920 hours on 17 August 2011, COM-1 went to work as usual but found that the footbridge leading to HKCEC¹⁵ was closed due to the VP’s visit. COM-1 wanted to know the details of the closure but could not find any police officers in the vicinity with whom she could make enquiry. COM-1 then called “999” to ascertain when the footbridge would be re-opened. The Police Communication Officer (COMEE-1b), who responded to COM-1’s enquiry with “999”, told COM-1 to check with the police officers in the vicinity. COM-1 was dissatisfied with the arrangements for the closure of the footbridge and COMEE-1b’s response to her enquiry.

Allegations

2.1.2 COM-1 alleged that:-

- (a) COMEE-1a (the Senior Superintendent who planned the security operation; also features as COMEE-4, COMEE-11d, COMEE-12a and COMEE-16e in this Interim Report) failed to give prior notice to the public on the details of the closure of the footbridge [**Neglect of Duty**];

¹⁴ For ease of reference in the reports, complainants and complainees are addressed as COM and COMEE followed by the assigned number of that complaint case. For instance, the complainant in Case 1 is COM-1 whereas the complainee is COMEE-1. If Case 1 has more than 1 complainant, the first complainant will be COM-1a and the second complainant COM-1b. The same applies to complainees.

¹⁵ See Map in Appendix 6.1.

- (b) COMEE-1a did not deploy sufficient manpower for outdoor crowd control duties in the vicinity, resulting in her inconvenience [**Neglect of Duty**]; and
- (c) COMEE-1b did not give COM-1 a proper answer but only advised COM-1 to seek assistance from the police officers at scene [**Neglect of Duty**].

CAPO Investigation and Findings

2.1.3 CAPO investigation and findings are as follows:-

- i) CAPO initially identified a Station Sergeant who was deployed to guard the footbridge as COMEE-1a.
- ii) CAPO contacted COM-1 and requested her to give a statement. However, COM-1 stated that she wanted to withdraw the complaint as she did not want to waste time on pursuing the matter any further.
- iii) Upon further verification of COM-1's intention to withdraw, CAPO classified the case as "**Withdrawn**" in accordance with the Complaints Manual.¹⁶

IPCC Examination of Case and Queries

2.1.4 After examining the CAPO investigation report, IPCC queried CAPO on the following matters:-

- i) IPCC was of the view that the Station Sergeant was not the right COMEE as he was only deployed to guard the footbridge and did not have any encounter with COM-1 on the material day. IPCC

¹⁶ The Complaints Manual, developed by CAPO in consultation with IPCC, sets out the framework and working protocol for CAPO to handle and investigate complaints against police officers in line with the statutory duties imposed under the IPCCO. It contains information, advice and guidelines on procedures for the handling and investigation of reportable complaints.

considered that COMEE-1a should be the senior police officer who made the decision on closing the footbridge.

- ii) IPCC requested CAPO to provide the relevant Operational Orders and the period of the actual closure of the footbridge.
- iii) IPCC also requested CAPO to arrange the senior police officer who planned and executed the security operation in Wanchai Police District to attend an IPCC interview.

CAPO Response

2.1.5 CAPO made the following responses to IPCC queries:-

- i) Having considered the comments made by IPCC, CAPO agreed to list the Senior Superintendent in charge of the security arrangements in Wanchai Police District as COMEE-1a.
- ii) CAPO arranged COMEE-1a to attend an IPCC interview.
- iii) Being concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO only provided extracts of the Operational Order which dealt with the closure of footbridges instead of the full version of the requested Operational Orders. It transpires from COMEE-1a and the extracts of the Operational Order provided by CAPO that for security purpose, a footbridge would be closed when the VP's motorcade drove underneath it.
- iv) In relation to the period of the actual closure of the footbridges, CAPO replied that the Police did not keep such records.

IPCC Conclusion

2.1.6 As a result of the IPCC queries, CAPO has identified the right police officer as COMEE-1a. As COM-1 informed CAPO that she wished to withdraw her complaint and that such wish had been properly verified, IPCC endorsed the classification of “**Withdrawn**”.

Outstanding Issues

2.1.7 Despite the withdrawal of complaint, IPCC is of the view that the crux of the matter leading to this complaint hinges on (a) whether the Police has sufficient justification to close the said footbridge; and (b) whether there is any fault or deficiency insofar as Police practice in the implementation of security measures in protecting the VP is concerned. In order to identify any room for improvement in the planning and execution of security operations for visits by political dignitaries in the future and to make recommendations to the Commissioner of Police (“CP”) and / or the CE where appropriate, the IPCC deems it necessary in the discharge of its function under section 8(1)(c) of the IPCCO to have access to the relevant Operational Orders. IPCC notes that the relevant Operational Orders issued by Police Headquarters are accessible to police officers in the rank of Inspectors or above who are involved in the security operation while those issued at the District level are accessible to officers in the rank of Sergeant or above. As such, allowing confidential access by IPCC to these Operational Orders in order to enable IPCC to properly discharge its duties should not, as claimed by CAPO, seriously undermine the effectiveness of similar Police security operations in the future. The IPCC has therefore invoked its power under sections 22 and 29 of the IPCCO to request CAPO to provide the relevant documents. These outstanding issues will be addressed in the Final Report.

Case 2 – Closure of Footbridge to Immigration Tower

Complaint

2.2.1 Around 1100 hours on 18 August 2011, COM-2 accompanied his relative to go to the Immigration Tower to handle some immigration matters. When COM-2 wanted to cross the footbridge from O'Brien Road to the Immigration Tower,¹⁷ he found that the footbridge had been closed. COM-2 did not know any other route to go to the Immigration Tower; therefore, he left the spot with his relative. COM-2 considered that since the footbridge was the only way to get to the Immigration Tower, it should not be closed for whatever reason including the VP's security. COM-2 stated that he did not have any encounter with any police officer at the scene.

Allegation

2.2.2 COM-2 alleged that COMEE-2 inappropriately closed the footbridge causing inconvenience to him [**Neglect of Duty**].

CAPO Investigation and Findings

2.2.3 CAPO investigation and findings are as follows:-

- i) CAPO identified a Sergeant who was deployed to close the footbridge as COMEE-2.
- ii) When CAPO contacted COM-2, COM-2 agreed to resolve the complaint by way of Informal Resolution (“**IR**”). Subsequently, CAPO conducted IR interviews with COM-2 and COMEE-2 respectively.

¹⁷ See Map at Appendix 6.2.

- iii) In the IR interview, COMEE-2 recalled that the footbridge was closed for no longer than 2 minutes at noon on that day when the motorcade of the VP drove underneath the footbridge. He discharged his duty in accordance with the instruction given by the command post. He said he did not receive any complaint from any pedestrians and did not have any encounter with COM-2 on the material day. He was advised in the IR interview that “*the complaint was possibly due to a lack of communication and sensitivity of COMEE-2 when dealing with COM-2,*” and was briefed “*on the standard required of him when dealing with members of the public.*”
- iv) COM-2 was informed in the IR interview that Wanchai Police District would also be advised to consider shortening the duration of road or footbridge closure and a wider use of signage during crowd control duty in future to provide clear directions to the public or to suggest alternative route.
- v) CAPO classified the complaint as “**Informally Resolved**”.

IPCC Examination of Case and Queries

2.2.4 After examining the IR Report of CAPO, IPCC queried CAPO on the following matters:-

- i) Since COM-2 considered that the footbridge should not be closed for whatever reason, COMEE-2 should be the senior officer who made the decision to close the footbridge instead of the Sergeant who only closed the footbridge in accordance with the instructions from the senior officers.
- ii) IPCC requested CAPO to provide IPCC with the relevant Operational Orders and the duration of the actual closure of the footbridge.

- iii) IPCC also requested CAPO to arrange the senior police officer who was in charge of the security arrangements in Wanchai Police District to attend an IPCC interview.

CAPO Response

2.2.5 CAPO made the following responses to IPCC queries:-

- i) CAPO maintained that the Sergeant should be the appropriate COMEE “...as COM-2 was dissatisfied with the Sergeant’s failure to consider the need of the public to get to the Immigration Tower via the footbridge.”
- ii) CAPO emphasized that, COM-2, when interviewed by CAPO, had been informed that “once an informal resolution interview has been completed, the complaint is regarded as having been dealt with on a final basis” and COM-2 agreed to resolve the complaint by way of IR. CAPO considered it inappropriate, from the perspective of COM-2, to extend the scope of enquiry to a full investigation.
- iii) Being concerned that disclosing confidential information on the security arrangements for the VP’s visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO only provided extracts of the Operational Order which dealt with the closure of footbridges instead of the full version of the requested Operational Orders.
- iv) In relation to the duration of the actual closure of the footbridge, CAPO replied that the Police did not keep such records.
- v) CAPO arranged a Senior Superintendent who planned and executed the security operation in Wanchai District to attend an IPCC interview. (The Senior Superintendent also features as COMEE-1a, COMEE-4, COMEE-11d, COMEE-12a and COMEE-16e in this Interim Report.)

IPCC Conclusion

2.2.6 IPCC considers it unfair and incorrect to list the Sergeant as COMEE-2 as the Sergeant did not have any encounter with COM-2 in the incident and he stated in the IR Interview that he discharged his duty to close the footbridge in accordance with the instruction given by the command post. IPCC does not agree to the argument that since COM-2 has agreed to resolve the complaint by way of IR, it is “*inappropriate, from the perspective of COM-2, to extend the scope of enquiry to a full investigation.*” IPCC accepts that once a COM is satisfied with the complaint being resolved by IR, normally the case should not be re-opened and the prevailing Complaints Manual provides no guidelines on re-opening “Informally Resolved” cases. However, IPCC takes the view that in this particular case, the IR process is faulty as the COMEE was wrongly identified in the first place. IPCC has issued a further query in relation to this matter.

Outstanding Issues

2.2.7 IPCC is of the view that the complaint lodged by COM-2 was that “the footbridge should not be closed for whatever reason including the VP’s security”; therefore, COMEE-2 has not been properly identified. IPCC is also of the view that without scrutinizing the relevant Operational Orders, IPCC is unable to determine whether the Police actions were justified and to identify if there is any fault or deficiency insofar as Police practice in the implementation of security measures in protecting the VP is concerned. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to supply IPCC with the relevant Operational Orders.

Case 3 – Closure of Footbridge to CITIC Tower

Complaint

2.3.1 Around noon on 16 August 2011, COM-3 intended to walk from the CITIC Tower to Admiralty, but found that the footbridge connecting the two locations¹⁸ had been temporarily closed for the security arrangements for the VP's visit. COM-3 learnt from a security guard of the CITIC Tower that no prior notice of the closure had been received. COM-3 was dissatisfied with the arrangements as there was no alternative route to go to Admiralty. COM-3 lodged her complaint via e-mail.

Allegation

2.3.2 COM-3 alleged that COMEE-3 failed to make a proper arrangement on the closure of the footbridge causing her inconvenience [**Neglect of Duty**]. (Note: CAPO initially identified a Station Sergeant as COMEE-3 but later substituted a Superintendent as COMEE-3.)

CAPO Investigation and Findings

2.3.3 CAPO investigation and findings are as follows:-

- i) CAPO initially identified a Station Sergeant who was deployed to close the footbridge as COMEE-3.
- ii) When interviewed by CAPO, COMEE-3 stated that he closed the footbridge for about 3 minutes on the instruction of the Command Post when the VP's motorcade drove past under the footbridge.
- iii) When CAPO contacted COM-3 by phone, COM-3 refused to give a

¹⁸ See Map in Appendix 6.3.

statement for reason that she had provided CAPO with all the information in her email. In the subsequent email communication, CAPO repeatedly asked COM-3 to give a statement, but COM-3 declined and reiterated that she had provided all the information. COM-3 refused to resolve her complaint by way of IR. CAPO did not contact COM-3 any further after COM-3 had not responded to CAPO's last e-mail sent on 3 September 2011.

- iv) On the grounds that COM-3 had not come forward to give a statement, which indicated that she did not wish to co-operate in the complaint investigation, CAPO classified the complaint as “**Not Pursuable**”.

IPCC Examination of Case and Queries

2.3.4 After examining the CAPO investigation report, IPCC queried CAPO on the following matters:-

- i) The classification of “Not Pursuable” was not justified as COM-3 had provided all the necessary information for a full investigation via e-mail and over the telephone.
- ii) COMEE-3 should not be the Station Sergeant who was only deployed to man the footbridge and did not have any encounter with COM-3 in the incident. IPCC considered that COMEE-3 should be the senior police officer who made the decision on closing the footbridge.
- iii) IPCC requested CAPO to furnish the relevant Operational Orders and information about the duration of actual closure of the footbridge.
- iv) IPCC also requested CAPO to arrange the senior police officer who planned and executed the security operation in Central Police District to attend an IPCC interview.

CAPO Response

2.3.5 CAPO made the following responses to IPCC queries:-

- i) CAPO maintained that the classification should be “Not Pursuable”. CAPO stated that according to the “agreed protocol” with IPCC, a COM was expected to provide a written statement or at least indicate whether he wished to pursue the complaint, unless there were exceptional circumstances or consideration. In this complaint, COM-3 did not give a statement or indicate whether he wanted to pursue the complaint.
- ii) Regarding the identity of COMEE-3, CAPO agreed to list a Superintendent in charge of the security arrangements in Central Police District as COMEE-3. (This Superintendent also features as COMEE-12b in this Interim Report.)
- iii) Being concerned that disclosing confidential information on the security arrangements for the VP’s visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO only provided extracts of the Operational Order which dealt with the closure of footbridges instead of the full version of the requested Operational Orders.
- iv) In relation to the duration of the actual closure of the footbridge, CAPO replied that the Police did not keep such records.
- v) CAPO also arranged COMEE-3 to attend an IPCC interview.

IPCC Conclusion

2.3.6 IPCC holds a different view with CAPO on what circumstances would lead to a complaint being classified as “Not Pursuable”. IPCC is of the view that the refusal of a COM to give a statement is just one of the factors to be

considered. In the event that, even without the COM's statement, a complaint can still be meaningfully investigated and that it is likely a definite finding can be arrived at, then the complaint should be fully investigated. In the instant case, COM-3 has provided sufficient information to allow CAPO to conduct full investigation; and there is sufficient indication from the contents of her emails that she wished to pursue her complaint. Hence, IPCC has requested CAPO to do so.

Outstanding Issues

2.3.7 IPCC is also of the view that without scrutinizing the relevant Operational Orders, IPCC is unable to determine whether the Police actions were justified and to identify if there is any fault or deficiency insofar as Police practice in the implementation of security measures in protecting the VP is concerned. To this end and for reasons given in paragraph 2.1.7 above, IPCC has requested CAPO to conduct a full investigation into the case and also invoked the power under sections 22 and 29 of IPCCO to require CAPO to supply IPCC with the relevant Operational Orders. In addition, IPCC will work out with CAPO under what circumstances CAPO should conduct a full investigation even in the absence of a written statement from a COM.

Case 4 – Closure of Footbridge to Hong Kong Arts Centre

Complaint

2.4.1 Around 2110 hours on 16 August 2011, COM-4 intended to go to the Hong Kong Arts Centre (“**Arts Centre**”) to watch a movie. When he reached the footbridge over Gloucester Road,¹⁹ he noticed that the footbridge had been temporarily closed. Although COM-4 showed his movie ticket to the police officers who guarded the footbridge, the officers did not let him pass. The footbridge was not re-opened until 2130 hours. COM-4 was dissatisfied with the arrangements and lodged his complaint by email. COM-4, however, did not provide any of his particulars or even his name or contact telephone number other than his email address.

Allegation

2.4.2 COM-4 alleged that COMEE-4 closed the footbridge without a justifiable reason [**Neglect of Duty**].

CAPO Investigation and Findings

2.4.3 CAPO investigation and findings are as follows:-

- i) CAPO identified a Sergeant who was deployed to close the footbridge connecting Fenwick Street and the Arts Centre as COMEE-4.
- ii) COM-4 did not provide any of his personal particulars other than his email address. When CAPO contacted COM-4 by email, COM-4 stated that he refused to provide a statement as he had already

¹⁹ See Map in Appendix 6.4.

provided all the information in his email. When CAPO further contacted COM-4, COM-4 did not respond. Therefore, CAPO classified the complaint as “**Not Pursuable**”.

IPCC Examination of Case and Queries

2.4.4 After examining the CAPO investigation report, IPCC queried CAPO on the following matters:-

- i) COMEE-4 should not be the Sergeant who was only deployed to close the footbridge. IPCC considered that COMEE-4 should be the senior police officer who decided on closing the footbridge.
- ii) IPCC requested CAPO to provide the relevant Operational Orders and the duration of the closure of the footbridge.
- iii) IPCC also requested CAPO to arrange the senior police officer who planned and executed the security operation in Wanchai Police District to attend an IPCC interview.

CAPO Response

2.4.5 CAPO made the following responses to IPCC queries:-

- i) CAPO agreed to list a Senior Superintendent in charge of the security arrangements in Wanchai Police District as COMEE-4. (Note: This Senior Superintendent also features as COMEE-1a, COMEE-11d, COMEE-12a and COMEE-16e in this Interim Report.)
- ii) Being concerned that disclosing confidential information on the security arrangements for the VP’s visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO only provided extracts of the Operational Order which dealt with the closure of footbridges instead of the full version of the

requested Operational Orders.

- iii) In relation to the duration of the actual closure of the footbridge, CAPO replied that the Police did not keep such records.
- iv) CAPO arranged COMEE-4 to attend an IPCC interview.

IPCC Conclusion

2.4.6 Having considered that COM-4 had not provided any of his particulars other than just his email address and COM-4 did not make any response when CAPO contacted him, IPCC shares with CAPO their reservation over COM-4's willingness to pursue the complaint. Therefore, IPCC agrees to the "**Not Pursuable**" classification.

Outstanding Issues

2.4.7 IPCC is of the view that the crux of matter leading to the complaint was that COM-4 doubted whether the footbridge should be closed. With a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders.

Case 5 – Clearing Pedestrian on Cotton Tree Drive

Complaint

2.5.1 Around 1930 hours on 16 August 2011, COM-5 (a lady) was waiting at the bus stop outside Hong Kong Park on Cotton Tree Drive²⁰ when a number of police officers appeared in the vicinity to direct traffic. Upon COM-5's enquiry, a police officer told her that part of the Cotton Tree Drive would be closed for a short while due to the VP's visit. Suddenly, COMEE-5 (a Woman Senior Inspector) appeared from behind, pushed COM-5 once on her shoulder and said “快啲走啦！快啲走啦” [Leave quickly! Leave quickly! (CAPO's translation)]. COM-5 requested COMEE-5 not to push her anymore but COMEE-5 pushed her shoulder one more time.

Allegation

2.5.2 COM-5 alleged that COMEE-5 treated her rudely [**Rudeness**].

CAPO Investigation and Findings

2.5.3 CAPO investigation and findings are as follows:-

- i) When CAPO contacted COM-5, COM-5 agreed to resolve the complaint by way of IR. Subsequently, CAPO conducted IR interviews with COM-5 and COMEE-5 respectively.
- ii) In the IR interview, COMEE-5 stated that in an operational briefing, she had been instructed to clear all pedestrians from the pavement of Cotton Tree Drive shortly before the arrival of the VP's motorcade. On the material day, upon the instruction of the Command Post, she

²⁰ See Map at Appendix 6.5.

and her subordinates asked people at the bus stop on the Cotton Tree Drive to move into the Hong Kong Park. COMEE-5 denied pushing anyone but she and her colleagues had put their hands on the shoulders of those unwilling to move into the Hong Kong Park in order to prevent them from rushing out to the road.

- iii) In the IR interview, COM-5 was informed that COMEE-5 would be reminded of the professionalism required of her in dealing with the public. COM-5 was also told that the senior management of Central Police District would be informed of the matter with emphasis on briefing frontline officers of the importance of high professional standard in dealing with members of the public in future operations.
- iv) CAPO classified the complaint as “**Informally Resolved**”.

IPCC Examination of Case and Queries

2.5.4 Having studied the IR report submitted by CAPO, IPCC queried on the justification for clearing all pedestrians from the pavement of Cotton Tree Drive and asked CAPO to provide IPCC with the instructions given to frontline police officers in the security operation.

CAPO Response

2.5.5 CAPO did not provide IPCC with the requested information for reason that the crux of the complaint was the encounter between COM-5 and COMEE-5, which had been dealt with by way of IR.

IPCC Conclusion

2.5.6 IPCC agrees to CAPO's handling of the complaint by IR in view of COM-5's consent to the action.

Outstanding Issues

2.5.7 Despite agreeing to the disposal of this complaint by IR, the IPCC is of the view there are doubts as to whether or not the Police Officers at scene should clear all pedestrians from the pavement of Cotton Tree Drive. With a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose.

Case 6 – Clearing pedestrian on Harbour Road

Complaint

2.6.1 Around 1500 hours on 18 August 2011, COM-6 crossed the Harbour Road from HKCEC towards Wanchai Tower.²¹ Outside the Wanchai Tower, COMEEs-6b to 6e [a Sergeant, a Senior Police Constable (“SPC”) and 2 Police Constables (“PC”)] asked him to leave the vicinity. COMEEs-6b to 6e explained to him that it was part of the security arrangements for the VP’s visit. At this juncture, COMEE-6a (an Inspector) appeared and instructed COMEE-6b to 6e to evict COM-6 from the spot “快啲扯佢入去” [pull him in immediately (CAPO’s translation)]. COMEE-6b to 6e then grabbed COM-6’s arm and escorted him to the entrance of Wanchai Tower.

Allegation

2.6.2 COM-6 alleged that COMEEs-6a to 6e treated him rudely by grabbing his arm to escort him to the Wanchai Tower [**Rudeness**].

CAPO Investigation and Findings

2.6.3 When CAPO contacted COM-6 by phone, COM-6 indicated that he wanted a full investigation into his complaint but he would not give a statement as he had to seek legal advice. CAPO further contacted COM-6 a number of times, but COM-6 did not make any response. On this basis, CAPO classified the complaint as “**Not Pursuable**”.

²¹ See Map in Appendix 6.6.

IPCC Examination of Case and Queries

2.6.4 After examining the CAPO investigation report, IPCC queried CAPO on the following matters:-

- i) IPCC requested CAPO to provide the relevant Operational Orders.
- ii) IPCC also requested CAPO to arrange the senior police officer who planned and executed the security operation in Wanchai Police District to attend an IPCC interview.

CAPO Response

2.6.5 CAPO made the following responses to IPCC queries:-

- i) Since rudeness was the allegation, CAPO did not provide IPCC with the relevant Operational Orders. Moreover, CAPO was also concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future.
- ii) CAPO arranged a Senior Superintendent who planned and executed the security operation in Wanchai Police District to attend an IPCC interview. (Note: The Senior Superintendent also features as COMEE-1a, COMEE-4, COMEE-11d, COMEE-12a and COMEE-16e in this Interim Report.)

IPCC Conclusion

2.6.6 IPCC is of the view that without any elaboration from COM-6 on how COMEE-6a to 6e were rude to him, it would be difficult for CAPO to come to a definite finding even after a full investigation. Therefore, IPCC agrees to the "Not Pursuable" classification.

Outstanding Issues

2.6.7 Despite agreeing to the “Not Pursuable” classification, with a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose.

Case 7 – Security Arrangements at HKU

Complaint

2.7.1 COM-7 is a professor of the University of Hong Kong (“**HKU**”). Around 0710 hours on 18 August 2011, when COM-7 drove to HKU from home, he was caught in a traffic jam on Pokfulam Road caused by a police van parked near Lady Ho Tung Hall.²² (Note: The police van was parked there to confine traffic to single lane in order to facilitate police to conduct snap checks.) COM-7 considered that the police vehicle should not be parked there. When COM-7 arrived at HKU, a police officer at a police checkpoint tried to make enquiry with him. However, that police officer could not speak English. COM-7 also noticed that excessive police officers were deployed in the University campus. COM-7 was dissatisfied with such security arrangements.

Allegations

2.7.2 COM-7 alleged that:-

- (a) COMEE-7 (later identified as a Chief Superintendent in charge of the security arrangements at HKU) arranged a police vehicle to be parked on Pokfulam Road somewhere near the Lady Ho Tung Hall of HKU resulting in unnecessary traffic congestion [**Neglect of Duty**];
- (b) COMEE-7 arranged an unreasonable security checkpoint inside the campus of HKU and had inappropriately deployed a non-English speaking officer to carry out duty at that checkpoint [**Neglect of Duty**]; and
- (c) COMEE-7 deployed excessive manpower for security arrangements at HKU [**Neglect of Duty**].

²² See Map at Appendix 6.7.

CAPO Investigation and Findings

2.7.3 CAPO investigation and findings are as follows:-

- i) CAPO identified a Chief Superintendent in charge of the security arrangements at HKU as COMEE-7.
- ii) When CAPO contacted COM-7, COM-7 agreed to resolve the complaint by way of IR. Subsequently, CAPO conducted IR interviews with COM-7 and COMEE-7 respectively. COM-7 accepted that his dissatisfaction be brought to the attention of COMEE-7 and Assistant Commissioner of Police / Operations for review and a better operational planning in the future.
- iii) In the IR interview, COMEE-7 was advised to uphold the importance of service quality, professionalism and sensitivity when formulating action plans on public order events in the future.
- iv) CAPO classified the complaint as “**Informally Resolved**”.

IPCC Examination of Case and Queries

2.7.4 After examining the IR report, IPCC requested CAPO to provide IPCC with the relevant Operational Orders, the instructions given to frontline officers in the operation and the demarcation of the security zones at HKU.

CAPO Response

2.7.5 Being concerned that disclosing confidential information on the security arrangements for the VP’s visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO did not provide IPCC with the requested Operational Orders and other related information.

IPCC Conclusion

2.7.6 IPCC agrees to CAPO's handling of the complaint by IR in view of COM-7's consent of the action and COMEE-7 was appropriately identified. IPCC endorses the classification of "**Informally Resolved**".

Outstanding Issues

2.7.7 Despite agreeing to the disposal of this complaint by IR, with a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose.

Case 8 – Protest Outside Central Government Complex

Complaint

2.8.1 On 18 August 2011, COM-8 and his associates intended to stage a protest outside CGC.²³ COM-8 was dissatisfied that COMEE-8 (an Inspector) inappropriately arranged a DPAA²⁴ at a location too far from the venue of the activities of the VP. COM-8 considered that COMEE-8 should not arrange protestors to enter the DPAA an hour before the VP's arrival at CGC, which COM-8 opined was hazardous to health as they had to stay under direct sun light for a long time. COM-8 further stated that COMEE-8 had promised him and other protestors that they would be able to see the VP and petition to him, but eventually they were unable to see the VP as the DPAA was too far away. COM-8 also said that COMEE-8 had not allowed him and other protestors to protest on the footbridge leading to CGC by blocking their views, covering their placards and seizing their protest materials.

Allegations

2.8.2 COM-8 alleged that:-

- (a) COMEE-8 inappropriately arranged a DPAA at a location far from the activities of the VP [**Neglect of Duty**];
- (b) COMEE-8 arranged all protestors to enter the DPAA an hour before the arrival of the VP, which COM-8 opined was a waste of their time and was hazardous to their health as they had to stay under direct sun light for a long time [**Neglect of Duty**];
- (c) COMEE-8 had promised COM-8 and other protestors that they would

²³ See Map in Appendix 6.8.

²⁴ See Photo in Appendix 6.8.

be able to see the VP and petition to him but eventually they were unable to meet the VP as the DPAA was far away from the VP [**Misconduct**];

- (d) COMEE-8 inappropriately caused a chaotic situation on the footbridge by blocking their view, covering their placards and seizing protest materials of the protestors [**Misconduct**]; and
- (e) COMEE-8 failed to facilitate COM-8 and other protestors to express their opinions to the VP [**Neglect of Duty**].

CAPO Investigation and Findings

2.8.3 CAPO investigation and findings are as follows:-

- i) When CAPO contacted COM-8, COM-8 agreed to resolve the complaint by way of IR. Subsequently, CAPO conducted IR interviews with COM-8 and COMEE-8 respectively.
- ii) In the IR interview, COM-8 was satisfied that his complaint would be referred to the management of Central Police District for giving suitable briefing to the concerned officers on improving communication with protestors in the future.
- iii) In the IR interview, COMEE-8 was reminded of the police policy to endeavor to facilitate, as far as possible, all peaceful public order events. COMEE-8 was explained of the importance of communication and professionalism in dealing with members of the public.
- iv) CAPO classified the complaint as “**Informally Resolved**”.

IPCC Examination of Case and Queries

2.8.4 After examining the CAPO investigation report, IPCC queried CAPO

on the following matters:-

- i) IPCC requested CAPO to provide the relevant Operational Orders, instructions given to frontline officers on handling protestors and information concerning the DPAA.
- ii) IPCC also requested CAPO to arrange the senior police officer who planned and executed the security operation in Central Police District to attend an IPCC interview.

CAPO Response

2.8.5 CAPO argued that the crux of the instant complaint was COMEE-8's handling of COM-8, which had been resolved by IR; therefore, it did not provide IPCC with the relevant Operational Orders. Moreover, CAPO was also concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future.

IPCC Conclusion

2.8.6 IPCC notes that 4 out of the 5 allegations relate to COMEE-8's handling of COM-8 and 1 allegation concerns the location of the DPAA. Upon COM-8's agreement, the complaint was resolved by IR. In view of the above, IPCC endorses the classification of "**Informally Resolved**".

Outstanding Issues

2.8.7 Despite agreeing to the disposal of this complaint by IR, with a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders,

so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose.

Case 9 – Protest on Footbridge to Central Government Complex (I)

Complaint

2.9.1 Around 1450 hours on 18 August 2011, COM-9 and about 10 members of the Democratic Party intended to march to CGC from Admiralty, with a view to giving a petition letter to the VP. When they reached the footbridge leading to CGC,²⁵ police stopped them from advancing further. They then protested on the footbridge. COM-9 and his associates left the location around 1530 hours.

Allegation

2.9.2 COM-9 alleged that COMEE-9 (an Inspector) failed to make proper arrangement to facilitate him and his associates to express their views to the VP and the officials of HKSAR [**Neglect of Duty**].

CAPO Investigation and Findings

2.9.3 CAPO investigation revealed the following:-

- i) When CAPO contacted COM-9, COM-9 agreed to resolve the complaint by way of IR instead of CAPO conducting a full investigation into the complaint. Subsequently, CAPO conducted IR interviews with COM-9 and COMEE-9 respectively.
- ii) In the IR interview, COMEE-9 stated that around 1345 hours on the material day, groups of protestors marched from Admiralty to the CITIC Tower via the footbridge. The first protest group stopped on the footbridge and refused to proceed further as they were dissatisfied

²⁵ See Map at Appendix 6.9.

with the location of DPAA (which was right outside the CITIC Tower opposite to CGC). Other protest groups behind them, including COM-9's party, had to stop too. Protestors soon started chanting slogans on the footbridge and leaned against the mills barriers that the police had erected along the footbridge. COMEE-9 stated that at no time did the police stop COM-9 and his party from going to the DPAA.

- iii) In the IR interview, COM-9 was explained that the choice of route to CGC and the location of the DPAA might not be desirable for the protestors and protestors might query whether they could protest at a location closer to CGC. CAPO would bring this matter to the attention of the management of police. It was further explained to COM-9 that COMEE-9 would be reminded of the importance of service quality and professionalism in dealing with the members of public and to balance the interest between protestors and security of CGC.
- iv) COMEE-9 was verbally advised accordingly.
- v) COM-9 was satisfied with the IR procedures. CAPO classified the complaint as “**Informally Resolved**”.

IPCC Examination of Case and Queries

2.9.4 Having studied the IR report submitted by CAPO, IPCC asked CAPO to provide IPCC with:-

- i) the relevant Operational Orders;
- ii) details of the instructions given to frontline police officers in handling protestors, and
- iii) information regarding the setting up of DPAA outside CGC.

CAPO Response

2.9.5 CAPO made the following responses to IPCC queries:-

- i) Since the complaint had been resolved by IR and being concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO did not provide IPCC with the requested Operational Orders and other related information.
- ii) CAPO also arranged a Superintendent in charge of the security operation in Central Police District (who is also COMEE-3 and COMEE-12b) to attend an IPCC interview.

IPCC Conclusion

2.9.6 Since COM-9 agreed that the complaint be dealt with by way of IR and accepted the clarifications given in the IR interview, IPCC endorses the classification of “**Informally Resolved**”.

Outstanding Issues

2.9.7 Despite agreeing to the disposal of this complaint by IR, IPCC is of the view that there are doubts as to whether or not the location of DPAA was desirable for the protestors. With a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose.

Case 10 – Protest on Footbridge to Central Government Complex (II)

Complaint

2.10.1 Around 1746 hours on 16 August 2011, COM-10 and members of the League of Social Democrats intended to stage a protest outside CGC. When they crossed the footbridge leading to CGC,²⁶ COMEE-10 (a Senior Inspector) disallowed them to advance further and prohibited them from displaying a banner.

Allegation

2.10.2 COM-10 alleged that COMEE-10 disallowed him to display a banner or express his opinion on the footbridge leading to CGC [**Unnecessary Use of Authority**].

CAPO Investigation and Findings

2.10.3 CAPO investigation and findings are as follows:-

- i) According to the notebook entry of COMEE-10, COMEE-10 saw COM-10 displaying a banner on the footbridge. For public safety and security, COMEE-10 immediately stopped COM-10 from displaying the banner and advised COM-10 to protest at the DPAA.
- ii) When CAPO contacted COM-10, COM-10 declined to provide a statement. Later, COM-10 did not reply to CAPO's correspondence.
- iii) CAPO classified that the complaint as "**Not Pursuable**".

²⁶ See Map at Appendix 6.10.

IPCC Examination of Case and Queries

2.10.4 After examining the CAPO investigation report, IPCC queried CAPO on the following matters:-

- i) IPCC had reservation about the classification of “Not Pursuable” since on the face of it the allegation was straightforward and COM-10 had provided the necessary details for CAPO to conduct a full investigation.
- ii) IPCC asked CAPO to provide the relevant Operational Orders, instructions given to frontline officers on handling protestors and information concerning the DPAA.
- iii) IPCC also requested CAPO to arrange the senior police officer who planned and executed the security operation in Central Police District to attend an IPCC interview.

CAPO Response

2.10.5 CAPO made the following responses to IPCC queries:-

- i) CAPO maintained the “Not Pursuable” classification. Again, CAPO made reference to the “agreed protocol” with IPCC and COM-10’s failure to give a statement as justification for the classification.
- ii) CAPO provided the location of the DPAA outside CGC.
- iii) CAPO arranged a Superintendent who planned and executed the security operation in Central Police District to attend an IPCC interview. (Note: The Superintendent also features as COMEE-3 and COMEE-12b in this Interim Report.) The Superintendent stated that frontline officers had been instructed to persuade protestors to protest at the DPAA.

- iv) Being concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO did not provide IPCC with the requested Operational Orders and other related information.

IPCC Conclusion

2.10.6 According to the Complaints Manual, in the absence of the co-operation of a COM, a full investigation should not be conducted unless a full investigation would likely conclude with a finding of "Substantiated", "Not Fully Substantiated"²⁷ or "False"²⁸. Having reviewed the case, IPCC considers that without the evidence of COM-10, it is unlikely that CAPO investigation would conclude with such findings. Therefore, IPCC endorses the classification of "**Not Pursuable**".

Outstanding Issues

2.10.7 Despite agreeing to the "Not Pursuable" classification, with a view to preventing similar complaints in the future pursuant to section 8(1)(c) of the IPCCO, IPCC sees the necessity of examining the relevant Operational Orders, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose.

²⁷ See Appendix 3 for definition.

²⁸ See Appendix 3 for definition.

Case 11 – Protest Outside Convention Plaza

Complaint and Allegations

2.11.1 This complaint relates to the removal of COM-11 by the police from a location outside the Convention Plaza²⁹ in the morning on 17 August 2011 when COM-11 wanted to go to the Hotel in Wanchai to submit a petition letter to the VP. COM-11 alleged that:-

- (a) in removing her from the scene, COMEE-11a pulled her hair and ears, and punched her mouth and head twice; COMEE-11b twisted her arms; and COMEE-11c grabbed her neck in order to press her onto the ground [**Assault**]; and
- (b) the police had unnecessarily used their authority to refuse her access to the Hotel to see her friends who were residents there [**Unnecessary Use of Authority**]. (Note: The Senior Superintendent in charge of the security operation was identified as COMEE-11d of this allegation.)

CAPO Investigation

2.11.2 CAPO has undertaken the following investigation:-

- i) CAPO identified COMEE-11a, COMEE-11b and COMEE-11c as the COMEES for allegation (a) since they were seen on a video filmed by Police Video Team (“PVT”) to be involved in the removal of COM-11. CAPO also identified a Senior Superintendent responsible for the security operation in the vicinity of the Hotel as COMEE-11d for allegation (b). (Note: COMEE-11d also features as COMEE-1a, COMEE-4, COMEE-12a and COMEE-16e in this Interim Report.)
- ii) Other than the 4 COMEES, CAPO also interviewed 3 civilian

²⁹ See Map and Photos 1 – 4 in Appendix 6.11.

witnesses, including a staff member of the Hotel and an ambulance man who treated COM-11 at the Plaza, and 11 police officers including the Senior Inspector (“SIP”) who ordered the removal of COM-11.

IPCC Examination of Case and Queries

2.11.3 After examining the CAPO investigation report, IPCC requested CAPO to provide the relevant Operational Orders and other related information on the locations of DPAA in the vicinity of the Hotel for the VP’s visit and previous political dignitaries’ visits and to arrange COMEE-11d and the SIP to attend an IPCC interview.

CAPO Response

2.11.4 CAPO made the following responses to IPCC queries:-

- i) Being concerned that disclosing confidential information on the security arrangements for the VP’s visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO did not provide the requested Operational Orders but furnished IPCC with information on the locations of DPAA in the vicinity of the Hotel for the VP’s visit and previous dignitaries’ visits.
- ii) CAPO arranged COMEE-11d and the SIP to attend an IPCC interview respectively. In the IPCC interview, the SIP revealed that police officers down to Sergeant rank would have sight of the Operational Orders issued by the District Commander.

IPCC Conclusion

2.11.5 In the absence of sufficient information about the security arrangements in the vicinity of the Hotel and the instructions given to frontline officers on handling protestors, IPCC cannot assess whether the removal of COM-11 was lawful and appropriate. Hence, IPCC cannot endorse CAPO's recommended classification.

Outstanding Issues

2.11.6 IPCC has sought further clarification from CAPO on the legal basis for removing COM-11 and, for reasons given in paragraph 2.1.7 above, invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders in order to determine whether the Police actions on COM-11 were justified. The classification of the allegations in this complaint will be addressed in the Final Report.

Case 12 – Submission of Petition Letters to VP

Complaint and Allegation

2.12.1 This complaint relates to the encounter between the police and COM-12 when the latter made several attempts to give petition letters to the VP at the CGC and in Wanchai³⁰ on 17 and 18 August 2011. COM-12 was dissatisfied that police officers asked for her personal particulars a number of times and alleged that:

COMEE-12a (CAPO identified the Senior Superintendent in charge of the security operations in Wanchai) and COMEE-12b (CAPO identified the Superintendent in charge of the security operations at CGC) failed to make proper arrangements in the security operation for the VP's visit by making enquiry on her on several occasions and making her unable to express her views to the VP's delegation [**Neglect of Duty**]. (Note: COMEE-12a also features as COMEE-1a, COMEE-4, COMEE-11d, and COMEE-16e, whereas COMEE-12b also features as COMEE-3 in this Interim Report.)

CAPO Investigation

2.12.2 CAPO has undertaken the following investigation:-

- i) CAPO interviewed COMEE-12a and COMEE-12b and obtained from them explanations for the Police actions.
- ii) Upon IPCC request, CAPO also arranged COMEE-12a and COMEE-12b to attend an IPCC interview respectively.

³⁰ See Map in Appendix 6.12.

IPCC Examination of Case and Queries

2.12.3 After examining CAPO investigation report, apart from requesting CAPO to arrange COMEE-12a and COMEE-12b to attend an IPCC interview individually, IPCC also requested CAPO to provide IPCC with the relevant Operational Orders and instructions given to frontline officers on handling protestors.

CAPO Response

2.12.4 CAPO made the following responses to IPCC queries:-

- i) CAPO arranged COMEE-12a and 12b to attend IPCC interviews respectively on 20 February 2012.
- ii) Being concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO did not provide the requested Operational Orders but furnished IPCC with information on the locations of DPAAAs in the vicinity of the Hotel for the VP's visit and previous dignitaries' visits.

IPCC Conclusion

2.12.5 In the absence of sufficient information about the security arrangements at CGC and in Wanchai and the instructions given to frontline officers on handling protestors, IPCC cannot assess whether the Police actions on COM-12 was lawful and appropriate. Hence, IPCC cannot endorse CAPO's recommended classification.

Outstanding Issues

2.12.6 IPCC has sought further clarification from CAPO on the legal basis for requesting COM-12 to provide her personal particulars and disallowing any petition outside DPAA and, for reasons given in paragraph 2.1.7 above, invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders in order to determine whether the Police actions were justified. The classification of the allegations in this complaint will be addressed in the Final Report.

Case 13 – Removal of a Male at Laguna City

Complaint and Allegation

2.13.1 This complaint relates to the removal of COM-13 by the police in the afternoon on 16 August 2011 outside Block 26 of The Laguna City³¹ when the VP was paying a visit to a family in Block 26. COM-13 alleged that 4 unidentified officers of VIPPU assaulted him [**Assault**].

CAPO Investigation and Findings

2.13.2 CAPO investigation and findings are as follows:-

- i) On 23 August 2011, when CAPO contacted COM-13, he agreed to be interviewed on 29 August 2011. Subsequently, COM-13 requested to adjourn the interview thrice. CAPO last contacted COM-13 in writing on 13 October 2011, but he did not make any reply.
- ii) CAPO initially listed 4 unidentified VIPPU officers as COMEES. CAPO stated in the investigation report that “*Albeit there were a few officers encountering COM, due to the indistinct description on the alleged assault and the role of assailants during the registration of his complaint, CAPO is unable to establish the identity of COMEE without the assistance of COM.*”
- iii) CAPO found on YouTube a news report of NowTV which captured part of the removal of COM-13. The video which lasts for about 1 minute shows the removal of COM-13 by 4 males in black suit each carrying a limb of COM-13. (This footage is also related to Case 14.)

³¹ See Map in Appendix 6.13.

- iv) CAPO also obtained other video records related to the complaint including footage recorded by the CCTV installed outside Block 26, which captured the removal of COM-13 by VIPPU officers.
- v) CAPO interviewed a Senior Superintendent (later identified as COMEE-13a) and a Chief Inspector (CIP) of VIPPU, who were responsible for protecting the safety of the VP during his visit to a family at Laguna City in the afternoon on 16 August 2011. They denied the allegation, saying that the removal of COM-13 from the vicinity of Block 26 when the VP visited a family in Block 26 was justified for the purpose of protecting the VP.
- vi) On the basis of COM-13 not giving a statement, CAPO classified the complaint as “**Not Pursuable**”.

IPCC Examination of Case and Queries

2.13.3 After examining the CAPO investigation report, IPCC queried CAPO on the following:-

- i) IPCC disagreed with CAPO’s classification of the allegation as “Not Pursuable”, having considered that COM-13 had provided the necessary details when he lodged his complaint. Together with the NowTV news footage and other video records obtained by CAPO, CAPO should be able to identify the VIPPU officers who took part in the removal of COM-13 and conduct a full investigation that may be able to reach a definite finding.
- ii) IPCC requested CAPO to invite COMEE-13a and the CIP to attend IPCC interviews. As a result, COMEE-13a and the CIP separately attended an IPCC interview, during which they gave details of the removal of COM-13 and the events leading to the incident.

- iii) On 5 March 2012, upon IPCC's invitation, COM-13 attended an IPCC interview. In the interview, he repeated his version of how he was forcibly removed from the common area outside Block 26 by a number of males. He explained why he refused to give a statement to CAPO. In the interview, SCC Members encouraged him to seriously consider giving a statement to CAPO to make use of the police complaints system. After the interview, IPCC advised CAPO to make further efforts to locate witnesses who might have seen or taken video footage on events leading to the removal of COM-13.

CAPO Response

2.13.4 CAPO made the following responses to IPCC queries:-

- i) CAPO listed the SSP as COMEE-13a and identified 1 Acting Sergeant and 4 PCs as COMEE-13b to 13f. When interviewed by CAPO, COMEE-13b to 13f denied the allegation and stated that the removal of COM-13 was justified.
- ii) In the absence of COM-13's cooperation, CAPO was of the view that the complaint investigation could not proceed any further. CAPO maintained the classification of "**Not Pursuable**".

IPCC Conclusion

2.13.5 IPCC is of the view that given the information that COM-13 has provided CAPO and the news reports of NowTV together with other video records obtained by CAPO, CAPO is able to conduct a full investigation that can reach a definite finding. IPCC has advised CAPO accordingly and to make further efforts to locate witnesses who were present when the incident took place. IPCC is awaiting response from CAPO.

Outstanding Issues

2.13.6 IPCC has sought further clarification from CAPO on the legal basis for removing COM-13 and, for reasons given in paragraph 2.1.7 above, invoked the power under sections 22 and 29 of the IPCCO to require CAPO to provide the relevant Operational Orders. As to the justifications for Police's removal of COM-13, the matter will be addressed in the Final Report.

Case 14 – Reporters’ Encounters with Police at Laguna City and in Homantin

Complaint

Introduction

2.14.1 This complaint case involved 2 incidents. The first incident related to and happened at the same time as Case 13. In this incident, COM-14a and COM-14b, respectively a reporter and a cameraman of NowTV, alleged that they were obstructed and mistreated by 2 police officers when they filmed the removal of a male (COM-13 in Case 13) by a number of males in black suit at Laguna City on 16 August 2011. In the second incident which took place on the same day, COM-14c, another NowTV reporter, complained against the inappropriate actions taken by the police outside WCT Building, including a senior police officer uttering unnecessary remarks and a WPC invading her privacy during a searching on her personal belongings.

First Incident - Encounter at Laguna City

2.14.2 Around 1730 hours on 16 August 2011, COM-14a and COM-14b provided news coverage on the VP’s visit to a family at Block 26 of Laguna City. They saw a male (COM-13) being removed by people in black suit (identified by CAPO as VIPPU officers) from the vicinity of Block 26.³² When COM-14b recorded the incident on a video camera, COMEE-14a (an SPC of VIPPU) used his hands to block the view of the video camera. COMEE-14b (a Sergeant of VIPPU) then appeared while COMEE-14a left the spot. COMEE-14b used his hand to press down COM-14b’s video camera in order to obstruct COM-14b

³² See Map 1 in Appendix 6.14.

from filming the removal action [**Allegations (a) & (h) – Unnecessary Use of Authority**]. When COM-14b asked COMEE-14b to stop holding down his video camera, COMEE-14b said “你手震啲” “你做乜手震呀?” “駛唔駛整整你部機呀?” “不如我幫你整整佢?” [“Your hand is shaking;” “Why are your hands shaking?” “Any need to repair your camera?” “How about if I assist you to repair the camera?” (CAPO’s translation)] [**Allegations (c) & (j) - Impoliteness and Misconduct**]. COMEE-14b held the video camera down for about 1 minute before he released it. At this juncture, COM-14a arrived there. COM-14a and COM-14b asked COMEE-14b to produce his credentials (to reveal his identity) but COMEE-14b ignored the request and left [**Allegations (b) & (i) – Neglect of Duty**]. COM-14a and COM-14b reported the incident to COMEE-14f (a uniformed PC) who happened to walk past. COMEE-14f, however, did not take any action but only recorded the particulars of COM-14a and COM-14b on his notebook and classified the matter as “Dispute”.

2.14.3 When the VP left Laguna City after having visited the family at Block 26, the VIPPU officers who had removed COM-13 to a place behind Block 27 also left the location without taking any further action on COM-13. COM-13 complained to COMEE-14f, who was there at that time, that he had been assaulted by some people in suit. However, COMEE-14f did not make enquiry with the VIPPU officers.

Second Incident - Encounter Outside WCT Building

2.14.4 Around 1100 hours on the same day, COM-14c, another NowTV reporter, arrived outside WCT Building to provide news coverage of the VP’s visit. At that time, no DPA had been set up. COM-14c placed her camera equipment on the pavement of Sheung Shing Street, directly opposite to WCT

Building (denoted as “A”).³³ Later, some officers in black suit told COM-14c that a DPA would be set up at a bus stop diagonally across WCT Building (denoted as “C”)³⁴ and requested COM-14c to move her video equipment there. COM-14c refused as she considered the DPA set up at “C” was too far away from WCT Building. COM-14c and other reporters moved their camera equipment to the pavement at the road junction of Sheung Shing Street and Sheung Lok Street (denoted as “B”).³⁵ (CAPO investigation revealed that the Police agreed to move the DPA to location “B” after negotiation with the reporters.) A senior officer later agreed to let reporters occupy this location “B” as DPA.

2.14.5 At 1400 hours, COMEE-14c (a Chief Inspector of VIPPU) told COM-14c and other reporters that they could not provide news coverage at “B”. COM-14c told COMEE-14c that an officer had earlier allowed them to occupy the location and it was very inconvenient to keep moving the bulky camera equipment. However, COMEE-14c said “如果你地真係唔肯搬走嘅話，我就call架貨車過嚟擋住你地！到時你地都係影唔到！” [If you refuse to move, I will arrange a truck to block you so that you are unable to film anyway (CAPO’s translation)] [**Allegation (d) – Misconduct**]. At this juncture, an expatriate officer talked to COMEE-14c. Afterwards, police officers erected mill barriers at “B” and set the location as DPA.

2.14.6 Sometime after 1400 hours, uniformed police officers requested reporters to display their Reporter Identity Cards. COM-14c did not display her Reporter Identity Card because she was about to deliver a live broadcast. COM-14c explained to police that her identity had been verified earlier. COM-14c then heard someone saying, “This is not a reporter and does not have

³³ See location “A” on Map 2 in Appendix 6.14.

³⁴ See location “C” on Map 2 in Appendix 6.14.

³⁵ See location “B” on Map 2 in Appendix 6.14.

a Reporter Identity Card. I can suspect you for impersonation.” COM-14c said that COMEE-14d (a Sergeant) was adamant in urging her to display her Reporter Identity Card [**Allegation (e) – Misconduct**].

2.14.7 About the same time, uniformed police officers searched the reporters’ personal belongings and camera equipment. COMEE-14e (a WPC who is also COMEE-16a in Case 16) searched COM-14c’s handbag and examined her trousers pockets and jacket. COM-14c, when interviewed by a CAPO officer, produced a video record depicting that COMEE-14e took COM-14c’s jacket out from a large bag placed on the ground and examined it. COM-14c considered that it was inappropriate to carry out searches shortly before the arrival of VP for it would impair her work [**Allegation (f) – Neglect of Duty**] and COMEE-14e should not examine her trousers pockets and jacket without giving her a reason [**Allegation (g) – Unnecessary Use of Authority**].

Allegations

2.14.8 COM-14a and COM-14b alleged that COMEE-14a and COMEE-14b abused their authority by invading their right of covering news in the vicinity [**Allegations (a) & (h) - Unnecessary Use of Authority**].

2.14.9 COM-14a and COM-14b requested COMEE-14b to produce his credentials but COMEE-14b ignored them [**Allegations (b) & (i) - Neglect of Duty**].

2.14.10 COM-14a and COM-14b alleged that COMEE-14b treated them impolitely by uttering unnecessary remarks “你手震喎”, “你做乜手震呀?”, “駛唔駛整整你部機呀?”, “不如我幫你整整佢?” [“Your hand is shaking;” “Why are your hands shaking?” “Any need to repair your camera?” “How about if I

assist you to repair the camera?” (CAPO’s translation)] [Allegations (c) & (j) – Impoliteness and Misconduct]

2.14.11 COM-14c alleged that COMEE-14c uttered unnecessary remarks “如果你地真係唔肯搬走嘅話，我就 call 架貨車過嚟擋住你地！到時你地都係影唔到！” [If you refuse to move, I will arrange a truck to block you so that you are unable to film anyway (CAPO’s translation)] [Allegation (d) – Misconduct].

2.14.12 COM-14c alleged that COMEE-14d was adamant in urging her to display her Reporter Identity Card [Allegation (e) – Misconduct].

2.14.13 COM-14c alleged that COMEE-14e (upon COMEE-14c’s instructions) inappropriately conducted a search on her personal belongings shortly before the arrival of VP [allegation (f) - Neglect of Duty].

2.14.14 COM-14c alleged that COMEE-14e should not examine her trousers pockets and jacket without giving her the reason [Allegation (g) - Unnecessary Use of Authority].

CAPO Investigation

2.14.15 CAPO had difficulties in securing the co-operation of the property management company and Owners’ Incorporation of Laguna City for making enquiry at Laguna City. As a result, CAPO constructed a model³⁶ (“**the Model**”) of the area between Blocks 26 and 27, which was used in the interviews of COMs-14a and 14b, and COMEEs-14a, 14b and 14f.

³⁶ See Photo in Appendix 6.14.

Encounter at Laguna City - Interviewing COM-14 and COM-14b

2.14.16 CAPO interviewed COM-14a and COM-14b on video. CAPO asked them to give details of their acts and movements and those of COMEE-14a, COMEE-14b and COMEE-14f with reference to different locations on the Model. CAPO also asked the 2 COMs to take part in re-enactment exercises (with CAPO officers acting as the 3 COMEEs) to demonstrate in detail their actual encounter with the COMEEs

Video Record of the Incident

2.14.17 When CAPO interviewed COM-14a and COM-14b, they showed CAPO footage which captured the incident. Both of them refused to provide CAPO with a copy of the footage but advised CAPO to approach NowTV. Upon receiving a request from CAPO for a copy of the footage, NowTV agreed to the request, on the condition that the footage would only be used for the investigating into the instant complaint and could not be shared amongst other government bodies or for any legal proceedings purpose. Since CAPO considered that it might have to provide a copy of the footage to IPCC for examination, CAPO did not agree to the condition demanded by NowTV. Eventually, CAPO was unable to obtain the footage from NowTV. Nonetheless CAPO found on YouTube a video titled “警務處長曾偉雄，不要踐踏新聞自由” which showed the removal of COM-13 by police officers at Laguna City and COMEE-14a waving his hands in front of the video camera.

Interviewing COMEE-14a, COMEE-14b and COMEE-14f

2.14.18 CAPO also interviewed COMEE-14a, COMEE-14b and COMEE-14f on video, in which CAPO asked them to give details of their encounter with the

2 COMs with reference to different locations on the Model. CAPO also asked COMEE-14a and COMEE-14b to take part in re-enactment exercises.

2.14.19 COMEE-14a's recollection of the events is as follows:

- i) COMEE-14a was deployed in the security operation for the VP's visit to Laguna City.
- ii) After the VP had entered Block 26, COMEE-14a stayed at the open space between Block 26 and Block 27. Later, COMEE-14a saw some VIPPU officers removing a male (COM-13) to the open area between Block 26 and 27. COMEE-14a immediately removed a mills barrier to facilitate the removal of COM-13. At this juncture, COM-14b, carrying a black object, dashed towards COMEE-14a on his left. COMEE-14a made an instant response of extending his arms to prevent COM-14b from advancing. COMEE-14a subconsciously worried that COM-14b would throw the black object out and would also obstruct his colleagues in the removal of COM-13. COMEE-14a was able to discern that the black object was a video camera after he had intercepted COM-14b.
- iii) COMEE-14a stated that he had informed COM-14b that police was at work, but did not produce his police warrant card to COM-14b as the event happened in a split of second. COMEE-14a further stated that neither COM-14a nor COM-14b had requested him to produce his police warrant card.
- iv) At this juncture, COMEE-14b joined in to assist COMEE-14a. COMEE-14a then left the spot leaving COMEE-14b to handle COM-14b.

2.14.20 COMEE-14b's recollection of the events is as follows:

- i) COMEE-14b also saw the removal of COM-13 by VIPPU officers.

When COMEE-14b was prepared to offer assistance to his colleagues, he saw COM-14b appeared on his left, about 2 meters away, dashing in the direction of the flowerbed between Block 26 and 27. COMEE-14b immediately made a 90-degree turn to face COM-14b and extended his right arm with his palm flatted facing the ground and all the fingers together, to the height of his eye level with a view to intercepting COM-14b. However, he then noticed that the third phalange of his right index finger was accidentally trapped between the lens of COM-14b's video camera and the metal part above the lens. COM-14b then lowered the video camera with the lens pointing at the ground. At this moment, COMEE-14b realized that COM-14b was a reporter. Upon COMEE-14b's request, COM-14b tilted the video camera upwards to let COMEE-14b retract his hand from the gap on the camera. The above encounter lasted for 40 to 50 seconds. Given the concern over the possibility of damaging COM-14b's camera or injuring himself, COMEE-14b decided to seek COM-14b's cooperation to release him instead of making good of his escape by himself.

- ii) COMEE-14b admitted saying "your hand is shaking" as COM-14b's hand was actually shaking at that moment, but he denied saying "any need to repair the camera".
- iii) COMEE-14b said he had announced that he was a policeman when he intercepted COM-14b but he did not produce his credentials (police warrant card) as COM-14b had not requested him to do so.
- iv) Subsequently, COMEE-14b heard on the radio (police equipment) that VP was about to leave. COMEE-14b immediately left for the lobby of Block 26.

Measuring the Video Camera

2.14.21 CAPO secured a video camera of the same model carried by COM-14b in the incident and measured the length of the gap between the lens and metal part above the lens and COMEE-14b's finger. COMEE-14b was also invited to demonstrate how his finger was trapped by the camera. CAPO concluded that the gap was too wide to firmly trap the third phalange of COMEE-14b's right index finger.

Encounter Outside WCT Building - Interviewing COMEE-14c.

2.14.22 CAPO interviewed COMEE-14c. His clarification is as follows:-

- i) COMEE-14c said he did not have any encounter with the reporters at location "B" outside WCT Building and he had not asked the reporters not to stay at location "B".
- ii) COMEE-14c could not recall whether he had said anything to the reporters, "If you refuse to move, I will arrange a truck to block you so that you are unable to shoot anyway." However, he believed that he had not.
- iii) COMEE-14c said that location "B" was on the ingress route of the VP's motorcade. He ordered police officers to search the reporters' belongings and their video equipment as a safety precaution.

Interviewing COMEE-14d and COMEE-14e

2.14.23 CAPO interviewed COMEE-14d and COMEE-14e. COMEE-14d denied having been adamant on requiring COM-14c to display her Reporter Identity Card. COMEE-14e denied examining the trousers pockets and jacket of COM-14c.

Enquiry with Civilian Witnesses

2.14.24 CAPO sent letters to 11 major media companies to appeal to their reporters, who were present at the DPA at the material time, to provide information for the investigation. Their responses are as follows:-

- i) One reporter from a media company (hereinafter referred to as “Reporter A”) gave a statement to CAPO.
- ii) Other than Reporter A, CAPO also interviewed 2 cameramen of NowTV and a reporter of Metro Broadcast (who is also COM-16 in Case 16) who were present at the DPA at the material time. They corroborated the story given by COM-14c in relation to COMEE-14c saying the unnecessary remarks to reporters.
- iii) Reporter A recalled that reporters had been asked to display their Reporter Identity Cards. Reporter A and COM-14c did not comply but they were still allowed to provide news coverage at the DPA. Reporter A did not hear any police officer announcing that reporters were disallowed to stay at the DPA if they did not display their Reporter Identity Cards. Reporter A recalled that police searched reporters’ belongings 30 to 45 minutes before the VP’s arrival.
- iv) The Metro Broadcast reporter (COM-16) said that COMEE-14e searched her purse without giving her any reason. She queried COMEE-14e about the search but COMEE-14e did not respond. She also lodged a complaint against COMEE-14e in relation to the search (Case 16). In that complaint case, CAPO found the allegation “**Substantiated**”.

Enquiry with Police Officers

2.14.25 CAPO interviewed a total of 8 police officers. It transpires that it

was a Woman Chief Inspector (Police Community Relations Officer) who gave the order of asking the reporters to display their Reporter Cards and searching their personal belongings to ascertain if there was any hidden dangerous object.

CAPO Findings

2.14.26 CAPO classified allegations (a) and (h) as “**Substantiated**”. The following findings are highlighted:-

- i) CAPO took the view that the COMEES’ explanations in justifying their actions during the encounters with the COMs were filled with quirk and coincidence, hence not credible.
- ii) On the other hand, CAPO considered that the versions of COM-14a and COM-14b were cogent and credible.
- iii) CAPO found that COMEE-14a deliberately waived his hands in front of COM-14b to block COM-14b’s filming. CAPO also found that COMEE-14b had deliberately held the video camera of COM-14b and clenched it for almost a minute instead of being trapped into the gap accidentally. CAPO was unable to determine the motive of the improper acts of both COMEES but did not rule out the possibility of intentional obstruction on COM’s news coverage of the removal of the male.
- iv) CAPO took a serious view on COMEE-14a and COMEE-14b giving “*disingenuous evidence in favour to themselves and regards it an aggravating factor that exacerbates the seriousness and gravity of the allegation.*” CAPO recommended a disciplinary review on COMEE-14a and COMEE-14b by the concerned formation.

2.14.27 CAPO classified allegations (b), (c), (i) and (j) as “**Substantiated**”. COM-14a said he approached and confronted COMEE-14b after noticing that

COMEE-14b had pressed down COM-14b's camera. COMEE-14b denied meeting COM-14a at all, but COMEE-14f witnessed the presence of COM-14a, COM-14b and COMEE-14b together. COMEE-14b described his encounter with COM-14b as having positive dialogue without any indication of disinclination, but COMEE-14f witnessed COM-14a, COM-14b and COMEE-14b being engaged in a dispute nosily. Given the circumstances under which COMEE-14b intercepted the COMs, it is reasonable for COM-14a and COM-14b to ask COMEE-14b to produce his credentials. CAPO is satisfied that COM-14a and COM-14b had not exaggerated or fabricated evidence to set COMEE-14b up. Taking into account the explanations of COMEE-14b which was found to be not credible, CAPO concluded that COMEE-14b had failed to produce his credentials as requested by COM-14a and COM-14b, had treated COM-14a impolitely by repeatedly ignoring his questions and had uttered the alleged unnecessary remarks to COM-14b. Since the 4 allegations were sequel of allegations (a) and (h). CAPO recommended a disciplinary review on COMEE-14b by the concerned formation with consideration of allegations (a) and (h).

2.14.28 CAPO classified allegation (d) as “**Substantiated**” after analysing all the relevant evidence. In particular, COMEE-14c denied having any direct interaction with the reporters and explained that he appeared in the vicinity for giving a briefing to some police officers. However, the various police officers denied receiving any briefing from him, but one officer saw him talking with the reporters whereas another officer heard him requesting the reporters to move to the planned DPA (at location “C”). On the other hand, COM-14c's version was corroborated by other reporters, and was consistent with the versions of various police officers at scene. CAPO therefore concluded that COMEE-14c had indeed said “*If you refuse to move, I will arrange a truck to block you so that you are unable to film anyway*”. CAPO recommended COMEE-14c be warned

without Divisional Record File (“**DRF**”) entry.

2.14.29 CAPO classified allegation (e) as “**No Fault**”. COMEE-14d admitted requesting the reporters to display their Reporter Identity Cards as instructed by his superior. He, however, did not take any action on those reporters who failed to comply with his request, and allowed them to continue with their work even though they did not display the Cards as he felt it was pragmatic to do so under the circumstances. COMEE-14d’s flexible application of the request was fully supported by Reporter A. CAPO considered that it was prudent on the part of the Police to request all reporters to display their Reporter Identity Cards inside the DPA, and so it was reasonable for COMEE-14d to make the request. CAPO considered that COM-14c might have misconstrued such a request as a compulsion. CAPO concluded that there was no evidence that COMEE-14d had forced or been adamant in requiring COM-14c to display her Reporter Identity Card. CAPO did not observe any misbehavior or wrongdoing on the part of COMEE-14d.

2.14.30 CAPO classified allegation (f) “**No Fault**”. In order to ensure that the reporters did not have any dangerous items in their possession, a search on the reporters was conducted at the DPA before the VP’s arrival. COM-14c did not raise objection to the search but complained that COMEE-14c conducted a search on her shortly before the arrival of the VP. According to Reporter A, searches of the reporters’ belongings were completed 30 to 45 minutes before the VP’s arrival. This version was also consistent with the relevant police officers’ versions. CAPO considered that the timing of the searches had not caused any inconvenience or trouble to COM-14c in carrying out her work to cover the VP’s visit.

2.14.31 CAPO classified allegation (g) as “**Substantiated**”. COMEE-14e

said she was briefed by her superior to search the personal belongings of the reporters but not the pockets of the reporters' clothing. She denied searching COM-14c's trousers pockets. However, during CAPO interview, COMEE-14e gave changing and contradictory versions relating to certain details of searches conducted by her at that time. The video footage produced by COM-14c showed that COMEE-14e took COM-14c's jacket out from a large bag and examined it. She then talked to COM-14c and soon after, COM-14c took a mobile phone out from the right trousers pocket and showed it to her. CAPO did not consider COMEE-14e credible. CAPO concluded that there was sufficient evidence showing that although COMEE-14e had not made any physical contact with COM-14c, she had made a request to examine COM-14c's trousers pockets and the latter complied with her request. Her action plainly went beyond her superior's instruction not to search the clothes of the reporters. CAPO took a serious view on COMEE-14e's total denial of the allegation, which CAPO regarded as "*an aggravating factor that exacerbates the seriousness and gravity of the allegation.*" CAPO recommended COMEE-14e be warned without DRF entry.

2.14.32 CAPO classified 2 additional allegations against COMEE-14f [(k) and (l) – **Neglect of Duty**] as "**Substantiated Other Than Reported**"³⁷ in relation to his mishandling of (i) the complaint made by COM-14a and COM-14b and (ii) the complaint of Assault made by COM-13 who was removed by VIPPU officers. CAPO found that upon receiving the complaint of COM-14a and COM-14b, COMEE-14f failed to make any enquiries with COMEE-14a and COMEE-14b. COMEE-14f also failed to make enquiries with VIPPU officers when COM-13 complained of being assaulted by them. CAPO recommended COMEE-14f to be warned without DRF entry to take suitable action commensurate with the case nature in the future.

³⁷ See Appendix 3 for definition.

Outwith Matter

2.14.33 In CAPO investigation, it was revealed that COMEE-14f wrongly recorded COM-14a's name on his notebook. CAPO recommended COMEE-14f be advised without DRF entry.

IPCC Observations and Conclusion

2.14.34 IPCC is satisfied with CAPO investigation in this case for arriving at positive finding of facts despite the conflicting versions of the COMs and the police officers concerned. After examining the investigation report and related materials, IPCC agreed with CAPO's findings. IPCC endorses CAPO classifications of all the allegations and recommendations of actions.

Outstanding Issues

2.14.35 Notwithstanding that IPCC has endorsed the classifications of this case, IPCC sees the necessity of examining the relevant Operational Orders, with a view to preventing similar complaints in the future, pursuant to section 8(1)(c) of the IPCCO, so that appropriate recommendations may be made to the CP and / or the CE. To this end and for reasons given in paragraph 2.1.7 above, IPCC has invoked the power under sections 22 and 29 of IPCCO to require CAPO to provide the relevant Operational Orders for examination purpose. The broader issues concerning security measures implemented by the Police will be addressed in the Final Report.

Case 15 – Protest Outside Central Plaza (Sub-Judice)

Complaint

2.15.1 Around 2045 hours on 16 August 2011, COM-15 who wanted to protest in front of the VP was escorted by COMEE-15a (a WPC) to the DPAA outside the Central Plaza.³⁸ When they arrived at the DPAA, COM-15 refused to enter the designated area but attempted to go in the direction of the Hotel. COMEE-15a and COMEE-15b (another WPC) tried to stop COM-15 but COM-15 put up a struggle. Subsequently, with the assistance of COMEES 15b to 15e (COMEES 15c to 15e are respectively a Woman Senior Inspector and 2 PCs), COMEE-15a arrested COM-15 for “Resisting a Police Officer in the Execution of her Duty”. COM-15 was later charged with 2 counts of the offence. She pleaded not guilty and the trial was fixed for 1 June 2012.

Allegations

2.15.2 COM-15 alleged that:-

- (a) COMEE-15a arrested her without justifiable reason [**Neglect of Duty**].
- (b) COMEE-15a to 15e assaulted her during the arrest [**Assault**].

CAPO Investigation and Findings

2.15.3 COM-15 has opted for the “Sub-Judice” procedures. The complaint investigation is therefore suspended pending the conclusion of COM-15’s trial.

³⁸ See Map in Appendix 6.15.

Outstanding Issues

2.15.4 CAPO will monitor COM-15's trial and that complaint investigation will be re-activated upon its conclusion.

Case 16 – DPA Locations and Search of Reporters’ Personal Belongings

Complaint

Location of DPA outside WCT Building

2.16.1 COM-16 is a reporter of Metro Broadcast. In the afternoon on 16 August 2011, she covered the news of VP’s visit to HKHAH and WCT Building in Homantin. At 1200 hours on 16 August 2011, COM-16 went to WCT Building and noticed that reporters had placed video equipment at a location opposite to the entrance of WCT Building across Sheung Shing Street (denoted as “A”; about 24.5 meters from the entrance of WCT Building).³⁹ Later, COM-16 left the location for HKHAH.

2.16.2 When COM-16 returned to WCT Building, she noticed that a DPA had been set up on the pavement at the road junction of Sheung Shing Street and Sheung Lok Street, diagonally opposite to WCT Building (denoted as “B”; about 39.2 meters from the entrance of WCT Building).⁴⁰ COM-16 considered the location too far from WCT Building, making her unable to see the VP. [Note: Subsequent CAPO enquiries revealed that the Police initially set the DPA at another location (denoted as “C”)⁴¹ which is farther away from WCT Building. After negotiation with the reporters on the material day, the Police eventually agreed to settle the DPA at location “B”.]

Searching of COM-16’s Purse

2.16.3 When COM-16 entered the DPA (at location “B”) outside WCT

³⁹ See location “A” on Map 1 and Photo 1 in Appendix 6.16.

⁴⁰ See location “B” on Map 1 and Photo 2 in Appendix 6.16.

⁴¹ See location “C” on Map 1 and Photo 3 in Appendix 6.16

Building, COMEE-16b searched her personal belongs, which COM-16 had no objection. In the search, COMEE-16b examined COM-16's purse closely, counting every banknote, taking out a taxi receipt from the inner compartment of her purse and even rubbing the taxi receipt with her (COMEE-16b's) fingers. COM-16 felt that her privacy had been unreasonably invaded, so she asked COMEE-16b the reason for searching her purse so meticulously but COMEE-16b did not give a reply. COM-16 then turned to COMEE-16c (a Sergeant), who instructed COMEE-16b to search COM-16's belongings, for an answer. COMEE-16c, however, also did not offer her any explanation.

Location of DPA at HKHAH

2.16.4 COM-16 was also dissatisfied with the location of the DPA at HKHAH which was set up at the entrance of a sidewalk of HKHAH,⁴² about 20 meters from where VP would enter HKHAH. COM-16 reckoned that the DPA was too far away to let her see the VP clearly. COM-16 noticed that before the VP's arrival, police allowed residents to use the sidewalk but forbade reporters to go there. COM-16 thought that it was not a fair arrangement. COM-16 did not however stay at HKHAH until the VP's arrival but went to WCT Building to provide news coverage there.

Security Arrangements at the Hotel

2.16.5 In the evening on 17 August 2011, HKSAR held a welcome dinner at the Hotel. COM-16 was tasked to provide news coverage on the banquet. COM-16 and other reporters were arranged to stay inside a room in the Hotel to watch the live broadcast of the event. Sometime that evening, COM-16 requested to use the toilet. COMEE-16d (a WPC) accompanied her to the

⁴² See Map 2 and Photo 4 in Appendix 6.16.

toilet. COM-16 felt embarrassed by COMEE-16d waiting for her inside the toilet.

2.16.6 After the banquet, COM-16 and other reporters were required to leave the Hotel to continue news coverage at the DPA located on the sidewalk between Wanchai Tower and Shun On Centre.⁴³ COM-16 considered the DPA too far away from the Hotel.

Allegations

2.16.7 COM-16 alleged that:-

- (a) COMEE-16a (a Senior Superintendent) failed to make a fair arrangement for her to properly discharge her duty as a reporter at HKHAH [**Neglect of Duty**] (Note: CAPO identified COMEE-16a for this allegation because he planned and executed the security operation at HKHAH);
- (b) COMEE-16b invaded her privacy by searching (at the DPA outside WCT Building) the private items in her purse [**Unnecessary Use of Authority**];
- (c) COMEE-16c failed to offer her an explanation for searching her purse [**Neglect of Duty**];
- (d) The location of the DPA set up by COMEE-16a outside WCT Building was inappropriate as it was too far away from the visiting spot of the VP [**Neglect of Duty**] (Note: CAPO identified COMEE-16a for this allegation because he planned and executed the security operation at WCT Building);
- (e) COMEE-16d embarrassed her by waiting for her inside the toilet near the sink [**Misconduct**] (Note: COM-16 later withdrew this allegation);

⁴³ See Map 3 and Photo 5 in Appendix 6.16.

and

- (f) COMEE-16e inappropriately set up a DPA at a location too far away from the Hotel [**Neglect of Duty**]. (Note: CAPO identified COMEE-16e for this allegation because he planned and executed the security operation in Wanchai where the Hotel was located. COMEE-16e also features as COMEE-1a, COMEE-4, COMEE-11d, and COMEE-12a in this Interim Report.)

CAPO Investigation and Findings

2.16.8 After investigation, CAPO concluded with the following findings on allegations (a), (b), (c) and (e), which IPCC agrees :-

DPA outside HKHAH – Allegation (a)

- i) When interviewed by CAPO, COMEE-16a stated that the location of the DPA outside HKHAH provided the best camera view and at the same time would not compromise the security operation. He also stated that any time before 30 minutes prior to VP’s arrival, people including reporters were free to move on the sidewalk outside HKHAH. At 30 minutes before VP’s arrival, police would advise people to leave the sidewalk. At 5 minutes before VP’s arrival, police would clear everyone from the sidewalk.
- ii) The evidence shows that the DPA allowed a close and unobstructed straight line of sight to the side entrance where the VP would enter HKHAH. The evidence also supports COMEE-16a’s clarification.
- iii) CAPO therefore classified allegation (a) as “**No Fault**”

Search of COM-16's purse – Allegations (b) & (c)

- i) CAPO interviewed COMEE-16b and COMEE-16c. COMEE-16b denied searching the purse of COM-16 whereas COMEE-16c said that COM-16 had not asked him the reason for searching her purse.
- ii) During the CAPO interview, COMEE-16b gave changing and contradictory versions. For example, she initially gave a very clear and firm account that she had not searched the purse of any reporter as she found that the purse of all reporters were very small and she did not believe there would be any chance of concealing dangerous object inside. However, when she was shown the photos of COM-16's purse, which was of quite considerable size and could have easily concealed dangerous objects such as blade or cutter, she then said that she had searched a lot of reporters and was unable to recap details of the search. She agreed that she would have searched COM-16's purse if it were found from the handbag of any reporter. Another example is that she initially stated that she did not search the reporters' clothing because she was briefed by her superior that the search did not include such a search. However, she later changed her version that she did not search the reporters' clothing because she did not see anything bulging out from their pockets.
- iii) CAPO interviewed a reporter who witnessed COMEE-16b searching COM-16's purse and COM-16 asking COMEE-16c for a reason of the search.
- iv) CAPO considered that COM-16 had given cogent, compelling and clear evidence which was largely corroborated by another reporter's evidence. On the other hand, COMEE-16b's version was found to be unconvincing because of her contradictory recollection of the event. Given the considerable size of COM-16's purse, it would be

unreasonable for COMEE-16b to leave out this item from search after finding it inside COM-16's handbag. COMEE-16b's actions of examining COM-16's banknotes and rubbing her taxi receipt were unnecessary, and it did give rise to COM-16's concern that her privacy was being invaded. It was reasonable for COM-16 to turn to COMEE-16c (who was the senior officer who gave instructions to COMEE-16b for the search) for an explanation.

- v) CAPO therefore classified allegations (b) and (c) as “**Substantiated**”.
- vi) CAPO considered COMEE-16b and COMEE-16c's denial aggravated the seriousness and gravity of the matter and recommended COMEE-16b and COMEE-16c be warned without DRF entry.

Following COM-16 into Toilet- Allegation (e)

- i) When CAPO interviewed COM-16, COM-16 withdrew this allegation. Hence CAPO classified allegation (e) as “**Withdrawn**”.

2.16.9 Regarding allegations (d) and (f), CAPO has carried out the following investigation and made its recommended classifications. IPCC, however, is unable to endorse the recommended classifications of allegations (d) & (f) as CAPO investigation report has not provided sufficient information to facilitate IPCC assessment.

DPA outside WCT Building – Allegation (d)

- i) COMEE-16a, when interviewed by CAPO, stated the DPA outside WCT Building was moved to location “B” after negotiation with the reporters. The decision on the DPA was fair and appropriate, made

with consideration of the need of the reporters and the safety of the VP.

- ii) CAPO interviewed 2 reporters and 2 cameramen who confirmed that police set up the DPA at location “B” after negotiation with reporters.

DPA outside the Hotel – Allegation (f)

- i) When interviewed by CAPO, COMEE-16e stated that he chose the pavement between Wanchai Tower and Shui On Centre as the DPA because that site provided the best vantage point for the press while at the same time the safety of the VP would not be compromised and the ingress and egress of the VP’s motorcade would not be obstructed.

Outwith Matter

2.16.10 In CAPO investigation, it was revealed that COMEE-16b, a WPC and a PC had failed to make notebook entries about their work in the security operation. CAPO recommended they be advised without DRF entry.

IPCC Examination of Case and Queries

2.16.11 After examining the CAPO investigation report, IPCC queried CAPO on the following matters:-

- i) IPCC requested CAPO to provide information regarding the setting up of DPAs outside WCT Building, HKHAH and the Hotel.
- ii) IPCC also asked CAPO to provide the relevant Operational Orders and instructions given to frontline officers in the security operations.
- iii) IPCC requested CAPO to arrange COMEE-16a and COMEE-16e to attend an IPCC interview respectively.

2.16.12 IPCC also invited COM-16 to attend an IPCC interview. In the interview, COM-16 repeated the version she had given in her statement.

CAPO Response

2.16.13 CAPO made the following responses to IPCC queries:-

- i) Being concerned that disclosing confidential information on the security arrangements for the VP's visit would seriously undermine the effectiveness of similar Police security operations in the future, CAPO only provided the locations of the DPAs outside WCT Building, HKHAH and the Hotel instead of the full version of the requested Operational Orders.
- ii) CAPO also arranged COMEE-16a and COME-16e to attend an IPCC interview on 20 February 2012 respectively.

IPCC Interview with COMEE-16a & COMEE-16e

2.16.14 When interviewed by IPCC, COMEE-16a gave his rationale for setting up the DPAs outside HKHAH and WCT Building and COMEE-16e gave information about the security arrangements in Wanchai.

IPCC Conclusion

2.16.15 IPCC subscribes to CAPO's findings concerning allegations (a), (b), (c) and (e). However, regarding allegations (d) and (f) which concerns the locations of the DPAs outside WCT Building and the Hotel, IPCC has yet obtained sufficient information from CAPO for making assessment on whether the arrangements were reasonable and justified. Hence, IPCC cannot endorse CAPO's recommended classification.

Outstanding Issues

2.16.16 In order to determine whether the Police was justified to set up DPAs at the locations specified in allegation (d) and (f), IPCC has invoked the power under sections 22 and 29 of the IPCCO to require CAPO to provide the relevant Operational Orders. The classification of allegations (d) and (f) will be addressed in the Final Report.

Part III – Conclusion and the Way Forward

Examination of the 16 Reportable Complaints

3.1 Amongst the 16 reportable complaints,⁴⁴ IPCC endorses the following 9 cases:-

<u>Case</u>	<u>CAPO's Classification</u>
Closure of Footbridge to HKCEC (Case 1)	Withdrawn
Closure of Footbridge to HK Arts Centre (Case 4)	Not Pursuable
Clearing Pedestrian on Cotton Tree Drive (Case 5)	Informally Resolved
Clearing Pedestrian on Harbour Road (Case 6)	Not Pursuable
Security Arrangements at HKU (Case 7)	Informally Resolved
Protest Outside CGC (Case 8)	Informally Resolved
Protest on Footbridge to CGC (I) (Case 9)	Informally Resolved
Protest on Footbridge to CGC (II) (Case 10)	Not Pursuable
Reporters' Encounters with Police at Laguna City and Wong Cho Tong Building (Case 14)	Substantiated (8 counts) No Fault (2 counts) SOTR (2 counts) and Outwith Matter (1 count)

3.2 For Case 16, IPCC endorses 4 of the allegations but does not endorse the classifications of allegations (d) and (f), which concern the locations of the DPAs outside the Hotel and WCT Building, since CAPO has yet provided the necessary information and documents about the security arrangements to IPCC for making the necessary and appropriate assessment on the justification

⁴⁴ See Appendix 2 for details.

of the setting up of DPA locations. IPCC has invoked the power under sections 22 and 29 of the IPCCO to require CAPO to provide the relevant Operational Orders.

3.3 For Case 15, in view of Sub-Judice procedures having been adopted, IPCC agrees that CAPO investigation will be re-activated upon conclusion of COM’s trial.

3.4 IPCC does not endorse the classifications of the remaining 5 cases on the grounds stated in the following table:-

<u>Case Name</u>	<u>CAPO’s Classification</u>	<u>Reason for Not Accepting the Classifications</u>
Closure of Footbridge to Immigration Tower (Case 2)	Informally Resolved	<u>Senior officer should be held accountable</u> COMEE should be the senior officer who decided to close the footbridge instead of the Sergeant who guarded the footbridge
Closure of Footbridge to CITIC Tower (Case 3)	Not Pursuable	<u>Full investigation should be conducted</u> Though COM has not given a statement, she has provided all the information by email. She is cooperative and can be contacted via the internet
Protest Outside Convention Plaza (Case 11)	Not endorsed by IPCC	<u>Operational Orders yet to be examined</u> Some allegations stemmed from police actions in the security arrangements but IPCC has yet obtained the necessary information and documents from CAPO for making the necessary and appropriate assessment.

<u>Case Name</u>	<u>CAPO's Classification</u>	<u>Reason for Not Accepting the Classifications</u>
Submission of Petition Letter to VP (Case 12)	Not endorsed by IPCC	<u>Operational Orders yet to be examined</u> CAPO has yet provided the necessary information and documents about the security arrangements to IPCC for making the necessary and appropriate assessment.
Removal of Male at Laguna City (Case 13)	Not Pursuable	<u>Full investigation should be conducted</u> With the available information, CAPO should be able to conduct a full investigation in order to arrive at a definite finding of the complaint.

The Approach of IPCC

3.5 IPCC adopts a holistic approach in the monitoring, review, and examination of all the 16 CAPO investigation reports on the Reportable Complaints listed above. Whilst IPCC acknowledges that the Police has the responsibilities of protecting the VP's personal safety and maintaining public order at the venues of the events attended by the VP during the whole period of 16 – 18 August 2011, IPCC also recognises that there are widespread public discontent and concern over the magnitude and latitude of the security arrangements adopted by the Police in achieving the aforesaid purpose (i.e. protecting the VP's personal safety). A quick glance through the 16 Reportable Complaints and the 6 Notifiable Complaints reveals that the COMs were in general unaware of, or in disagreement with, the reasons why the Police needed to adopt the security measures that they had actually implemented at various scenes, including closing footbridges, setting up the DPAs and DPAAAs at far away locations, clearing pedestrians and removing citizens present at the scenes,

exercising police powers in handling reporters and protestors etc.

3.6 Under the IPCCO, the Police is not required to submit investigation reports of the 6 Notifiable Complaints to IPCC for scrutiny and endorsement. Out of the 16 Reportable Complaint cases, only a few result in full investigations. IPCC recognises that the public concern regarding the security arrangements may not be adequately addressed simply through the examination of the limited number of fully investigated Reportable Complaints.

3.7 Therefore, in addition to closely and critically monitoring and reviewing the relevant CAPO investigations and reports for the purpose of ensuring that all CAPO investigations and reports are thorough, impartial, just and fair, IPCC also attempts to identify the causes leading to these complaints, and to find out if the actions taken by the Police in the security operations were proper and justified. In the event that any fault or deficiency in the relevant Police practices or procedures is identified, IPCC will, pursuant to section 8(1)(c) of the IPCCO, make recommendations to the CP and / or the CE where appropriate.

3.8 With the above approach in mind, IPCC has raised, and will continue to raise, queries with CAPO concerning the following 3 areas:

I. Identify the correct COMEEs for accountability purpose

3.9 In some of the complaint cases, particularly those 4 cases relating to closure of footbridges, CAPO has identified frontline officers at the ranks of PC, Sergeant and Station Sergeant as COMEEs, on the grounds that the grievance of COMs was against the frontline officers who manned the footbridges at the material time. However, IPCC noted that in these complaint cases, the

COMEEs so identified did not have any contact with the respective COM at all. IPCC takes the view that the grievance of COMs in all these cases arose from the inconvenience caused to them by the closure of the footbridges; hence, the senior Police officers who decided to close the footbridges as part of the security measures should be identified as COMEEs rather than those frontline officers who simply carried out the orders.

3.10 CAPO subscribed to IPCC's view as stated above in 3 of the cases (Cases 1, 3 & 4) but disagreed to list the concerned senior police officer as COMEE in Case 2, which has been "Informally Resolved", on the claim that "...the allegation did not focus on the decision of Police to close down the footbridge" and in the IR process "COM-2 did not request any review of Police's decision to close the footbridge."

3.11 IPCC then further looked into the records of COM lodging the complaint in Case 2 and the IR Report which recorded COM's assertion, and formed the view that COM had indeed complained about the propriety of the decision for closing the footbridge. COM expressly stated that in his opinion, the footbridge should not be closed for whatever reason. In the IR process, COM reiterated that there was no need to close the footbridge even though the VP's motorcade was about to pass underneath the said footbridge as the closure would cause inconvenience to the users. Notwithstanding that it was stipulated in the Complaints Manual that IR cases should normally not be re-opened, IPCC views this case an exceptional one because the COMEE was wrongly identified in the first place. To this end, IPCC has raised further queries with CAPO.

II. Conduct Full Investigation Whenever Practicable

3.12 In both Case 3 and Case 13, CAPO proposed a classification of “Not Pursuable” on the grounds that the respective COM in both cases had refused to provide a written statement to CAPO, which according to the Complaints Manual can be construed as a ground for the complaint to be classified as “Not Pursuable”. IPCC, however, disagrees that the non-provision of written statement by COM forms an automatic ground for “Not Pursuable” classification. IPCC is of the view that, if there is sufficient detailed information available to allow CAPO to conduct a full investigation into the allegations, and that it is likely that a definite finding such as “False”, “Not Fully Substantiated”, or “Substantiated” can be arrived at, then full investigation should be conducted even without a written statement being provided by COM. In these 2 cases, IPCC considers that objectively there exists sufficient detailed information for CAPO to conduct such an investigation. Further queries to this end have been issued to CAPO.

III. Access to All Relevant Operational Orders and Other Related Documents under S.22 & S.29, IPCCO

3.13 IPCC perceives that all the 16 complaints arose from one single cause, i.e. members of the public cast doubt on the magnitude and latitude of the Police actions in implementing the security arrangements for protecting the VP during the whole period of his stay. The most effective way to resolve this public concern would be for IPCC to closely scrutinize the relevant Police documents including the relevant Operational Orders, instructions given to frontline officers on handling pedestrians, citizens, protestors and reporters at the scenes, information and rationale regarding the setting up of DPAs and DPAAAs, the determination of the Security Zones and any other relevant

documents and information that can provide justifications for the Police security arrangements. To this end, IPCC has invoked power under sections 22 and 29 of the IPCCO to ask for the above-mentioned documents and information. To achieve a thorough evaluation of the issues, IPCC will also seek to compare the security arrangements for the VP visit on this occasion with those for the previous visits by other political dignitaries.

The Final Report

3.14 To facilitate IPCC compilation of the Final Report, a number of queries in relation to the security arrangements⁴⁵ have been raised with CAPO.

3.15 Following this Interim Report and upon receiving and critically examining further information to be furnished by CAPO on the relevant security arrangements as well as the related Operational Orders, a Final Report will be submitted to CE and made available to LegCo and the public. The Final Report will:-

- i) address the outstanding matters in relation to the 16 complaint cases that have not been resolved in this Interim Report (please refer to outstanding issues mentioned in the Reportable Complaint Cases in Part II above);
- ii) address the appropriateness of the security arrangements, in terms of the locations and operation of the security zones, DPAs and DPAAAs, handling of protestors and clearance of pedestrians etc., and whether police powers were properly exercised;
- iii) address any other relevant issues which may come to light in the examination of the 16 complaint cases and are within the IPCC purview;

⁴⁵ See Appendix 7.

- iv) examine whether there is any deficiency or room for improvement in the existing police procedure or practice and make recommendations for better planning and execution of future security operations.

Independent Police Complaints Council

May 2012