

# 廉政公署事宜投訴委員會

## ICAC COMPLAINTS COMMITTEE

二零一三年年報

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Annual Report 2013

3 June 2014

The Honourable C Y Leung, GBM, GBS, JP  
The Chief Executive  
Hong Kong Special Administrative Region  
People's Republic of China  
Chief Executive's Office  
Tamar  
Hong Kong

Dear Sir,

**ICAC Complaints Committee  
2013 Annual Report**

I have the honour to forward to you the annual report of the ICAC Complaints Committee for the year 2013. This is the nineteenth annual report of the Committee, which gives a summary of the work carried out by the Committee in the past year.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C.H. Leong', with a long, sweeping tail extending downwards and to the right.

( C.H. Leong )  
Chairman  
ICAC Complaints Committee

# INDEPENDENT COMMISSION AGAINST CORRUPTION COMPLAINTS COMMITTEE

## 2013 Annual Report

### INTRODUCTION

Established on 1 December 1977, the Independent Commission Against Corruption Complaints Committee (“the Committee”) is responsible for monitoring and reviewing the handling by the Independent Commission Against Corruption (“ICAC”) of non-criminal complaints against the ICAC and its officers. Since 1996, each year the Committee submits an annual report to the Chief Executive to provide an account of its work in the preceding year. With a view to enhancing the transparency and accountability of the Committee, the report will also be tabled at the Legislative Council and made available to the public.

### MEMBERSHIP

2. The Chairman and Members of the Committee are appointed by the Chief Executive. In 2013, the Committee was chaired by Dr LEONG Che-hung. A membership list of the Committee from 1 January 2013 to 31 December 2013 is at *Annex A*.

A

### TERMS OF REFERENCE

3. The terms of reference of the Committee are –
- (a) to monitor, and where it considers appropriate to review, the handling by the ICAC of non-criminal complaints by anyone against the ICAC and officers of the ICAC;
  - (b) to identify any faults in ICAC procedures which lead or might lead to complaints; and
  - (c) when it considers appropriate, to make recommendations to the Commissioner of the ICAC (“the Commissioner”), or when considered necessary, to the Chief Executive.

## HANDLING OF COMPLAINTS

4. If a person wishes to lodge a complaint against the ICAC or its officers, he/she may write to the Secretary<sup>1</sup> of the Committee (“the Secretary”), or complain to the ICAC at any of its offices at **Annex B** in person, by phone or in writing. When the complaint is received by the Secretary, he/she will acknowledge receipt and forward the complaint to the ICAC for follow-up action. Upon receipt of the Secretary’s referral or a complaint made to the ICAC direct, the ICAC will write to the complainant setting out the allegations with a copy sent to the Secretary. A special group, the Internal Investigation and Monitoring Group in the Operations Department of the ICAC, is responsible for assessing and investigating the complaints<sup>2</sup>, and the Commissioner will forward his conclusions and recommendations in respect of each complaint to the Committee via the Secretary.

**B**

5. For each case, the Secretary will prepare a discussion paper on the investigation report received from the Commissioner and circulate both documents to Members of the Committee for consideration. Members may seek additional information and/or clarifications from the ICAC concerning the reports. All papers and investigation reports will be arranged to be discussed at a Committee meeting. The complainants and ICAC officers involved will subsequently be advised of the Committee’s conclusions in writing.

## HANDLING OF SUB-JUDICE CASES

6. The ICAC investigates each complaint as soon as practicable. Where the allegations in a complaint are directly or closely associated with ongoing criminal enquiries or proceedings (“*sub-judice* cases”), the investigation will usually be deferred until the conclusion of such criminal enquiries or proceedings. Investigation of complaints generally involves in-depth interviews with the complainants, and these may touch upon the circumstances surrounding the criminal proceedings and could possibly prejudice the complainants’ position in *sub-judice* cases. Pursuant to the legal advice obtained, the complainants will be informed in writing that the investigation into their complaints will be deferred, pending the conclusion of relevant

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1 The address of the Secretary of the ICAC Complaints Committee is as follows -  
Administration Wing of the Chief Secretary for Administration’s Office,  
25/F, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong  
(Telephone number: 3655 5503; Fax number: 2524 7103)

2 Should circumstances require, the Commissioner may make ad hoc arrangement to assign a particular complaint to designated officers outside the Internal Investigation and Monitoring Group for assessment and investigation.

criminal enquiries or proceedings. If a complainant still wishes to seek immediate investigation of his/her complaint but the subject matter of the complaint appears to be closely related to issues on which the court may have to decide, the Commissioner will seek further legal advice and then decide whether or not to defer the investigation of the complaint. The ICAC provides a summary on *sub-judice* cases to the Committee for discussion at each Committee meeting.

## COMPLAINTS RECEIVED

7. In 2013, 31 complaints containing 86 allegations against the ICAC or its officers were received, as compared with 19 complaints containing 57 allegations received in 2012. Allegations registered in the year were related to misconduct of ICAC officers (44%); neglect of duties (37%); abuse of power (15%); and inadequacies of ICAC procedures (4%). A summary of the statistics is at Table 1 below.

*Table 1 – Number and category of allegations registered in 2012 and 2013*

Category of allegation	Number of allegations (%) in 2013	Number of allegations (%) in 2012
1. Misconduct	38 (44%)	30 (53%)
2. Neglect of duties	32 (37%)	16 (28%)
3. Abuse of power		
(a) search	1	2
(b) arrest/detention/bail	6	2
(c) interview	1	0
(d) handling property	2	2
(e) legal access	1	2
(f) improper release of identity of witnesses/informants/suspects	0	0
(g) provision of information/documents	2	0
<i>Sub-total :</i>	13 (15%)	8 (14%)
4. Inadequacies of ICAC procedures	3 (4%)	3 (5%)
<b>Total :</b>	<b>86</b>	<b>57</b>

8. Of the 31 complaints received in 2013, investigations into 20 complaints covering 55 allegations were concluded with the relevant reports considered by the Committee during the year. Investigation into 11 complaints covering 31 allegations was still under investigation as at the end of the year.

## **REPORTS CONSIDERED**

9. The Committee held three meetings during the year to consider a total of 31 cases, comprising 21 investigation reports and 10 assessment reports.

### ***Investigation Reports***

10. At the first meeting held in March 2013, the Committee considered investigation reports from the ICAC on one complaint received in 2012 and three received in 2013. At the second meeting held in June 2013, the Committee considered investigation reports on six complaints received in 2013. At the third meeting held in November 2013, the Committee considered investigation reports on 11 complaints received in 2013. A sample of an investigation report considered by the Committee is at *Annex C*.

C

11. Of the 21 complaints covering 60 allegations considered by the Committee in 2013, 12 allegations (20%) in five complaints (24%) were found to be substantiated or partially substantiated. A summary of the statistics is at Table 2 below.

Table 2 – Number and category of allegations found substantiated or partially substantiated by the Committee in 2012 and 2013

Category of allegation	2013		2012	
	Number of allegations considered	Number of allegations (%) found substantiated/ partially substantiated	Number of allegations considered	Number of allegations (%) found substantiated/ partially substantiated
1. Misconduct	34	11	31	0
2. Neglect of duties	21	0	20	2
3. Abuse of power				
(a) search	0	0	1	0
(b) arrest/detention/bail	0	0	4	0
(c) interview	1	0	2	0
(d) handling property	1	1	0	0
(e) legal access	0	0	2	0
(f) improper release of identity of witnesses/ informants/suspects	0	0	0	0
(g) provision of information/ documents	2	0	0	0
<i>Sub-total:</i>	4	1	9	0
4. Inadequacies of ICAC procedures	1	0	6	0
<b>Total :</b>	<b>60</b>	<b>12 (20%)</b>	<b>66</b>	<b>2 (3%)</b>

12. Of the five complaints with allegations found substantiated or partially substantiated, four related to ICAC officers improperly using social networking services by posting inappropriate photos and/or other contents on social networking websites which may undermine the professional image of the ICAC or the effectiveness of ICAC operations. In one of the cases, it also involved non-compliance by one of the officers with the internal guidelines on registration of visitors to the ICAC Building. Two officers were given a verbal warning and a written warning respectively. Additionally, 11 officers were each given advice by a senior officer.

13. In the fifth complaint, two officers had failed to record in the seizure list detailed descriptions of properties seized from an arrestee, and one officer had not timely informed the arrestee of the deferment of his requested interview. The three officers were each given advice by a senior officer.

14. In addition, one officer was given advice by a senior officer that he should have taken initiative in a timely manner to clarify the further information supplied by a witness although the complaint made against him was found not substantiated. The advice was given as part of ICAC's continuing review of ways on enhancing the professionalism of officers in discharging their duties.

15. The Committee noted that there were 12 allegations found to be substantiated or partially substantiated in 2013 as compared to two allegations in 2012. Majority (i.e. ten) of these 12 allegations arose from four complaints concerning improper use of social networking services by ICAC officers who had posted inappropriate photos and/or contents to social networking websites. The Committee also noted that appropriate disciplinary/administrative action has been taken against the relevant officers and that appropriate improvement measures and training have been promptly undertaken by the ICAC to prevent recurrence.

### ***Assessment Reports***

16. After preliminary assessment of a complaint, if the ICAC considered that a full investigation is not warranted, the ICAC would state the reason(s) and submit an assessment report for the Committee's consideration. During 2013, the Committee considered and endorsed 10 assessment reports. Preliminary enquiries showed that there were no grounds or justifications in these complaints that would warrant formal investigations, and the Committee agreed that no further investigative actions be taken. The complainants were so advised in writing.

### **IMPROVEMENTS TO PROCEDURES**

17. An important and positive outcome of investigating into complaints is that through examination of relevant issues, both the ICAC and the Committee may scrutinise existing ICAC internal procedures, guidelines and practices to see whether they need to be revised, with a view to making improvements.



18. Arising from the investigation reports considered during 2013, the ICAC had tightened up internal instructions concerning office security, protection of official information and use of social networking services for strict compliance and enhanced the training on such subject matters to heighten the vigilance of ICAC staff members in order to uphold the professional image and reputation of the ICAC. The ICAC had also reviewed and further refined the existing guidelines to provide additional guidance to investigating officers on the description of seizures.

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**Independent Commission Against Corruption  
Complaints Committee  
Membership List  
(from 1 January 2013 to 31 December 2013)**

Chairman : Dr LEONG Che-hung, GBM, GBS, JP

Members : Mr CHAN Chi-hung, SC

The Hon CHEUNG Chi-kong, BBS

The Hon Albert HO Chun-yan

Mrs Stella LAU KUN Lai-kuen, JP

Ms Angela LEE Wai-yin, BBS, JP

Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Mr Tony MA

*(Representative of The Ombudsman)*

## List of ICAC Offices

Office	Address and Telephone Number
ICAC Report Centre (24-hour service)	G/F, 303 Java Road North Point Tel: 2526 6366 Fax: 2868 4344 e-mail: ops@icac.org.hk
ICAC Regional Office – Hong Kong West/Islands	G/F, Harbour Commercial Building 124 Connaught Road Central Central Tel: 2543 0000
ICAC Regional Office – Hong Kong East	G/F, Tung Wah Mansion 201 Hennessy Road Wanchai Tel: 2519 6555
ICAC Regional Office – Kowloon East/Sai Kung	Shop No. 4, G/F, Kai Tin Building 67 Kai Tin Road Lam Tin Tel: 2756 3300
ICAC Regional Office – Kowloon West	G/F, Nathan Commercial Building 434-436 Nathan Road Yaumatei Tel: 2780 8080
ICAC Regional Office – New Territories South West	Shop B1, G/F, Tsuen Kam Centre, 300-350 Castle Peak Road Tsuen Wan Tel: 2493 7733
ICAC Regional Office – New Territories North West	G/F, Fu Hing Building 230 Castle Peak Road Yuen Long Tel: 2459 0459
ICAC Regional Office – New Territories East	G06 - G13, G/F, Shatin Government Offices 1 Sheung Wo Che Road Shatin Tel: 2606 1144

## A sample of an Investigation Report

### COMPLAINT

Mr X complained that -

- (a) Assistant Director A had exercised lax supervision over the subordinates, resulting in unreasonable institution of a corruption investigation against him;
- (b) Chief Investigator B who arrested him had failed to record in the relevant seizure list detailed descriptions of the thumb drives and Secure Digital (“SD”) cards seized from his briefcase; and
- (c) Chief Investigator B had unreasonably deprived him of an opportunity to provide additional information favourable to him in respect of the corruption investigation.

### BACKGROUND

2. In July and August 2012, the ICAC received two corruption reports against Mr X. An investigating section was assigned to carry out the investigation.

3. In the morning of a specified date in October 2012, Chief Investigator B, together with Investigator C and Assistant Investigator D (“the Team”), arrested Mr X for suspected corruption offences. The residence and office premises of Mr X were searched under warrants. On the same day, two cautioned interviews with Mr X were conducted and he was detained overnight pending further enquiries.

4. On the second day of his arrest at 1732 hours, Mr X lodged a complaint against Assistant Director A at the ICAC Detention Centre (“DC”) by requesting a Guarding Officer to write down on his Arrest/Detention Sheet (“A/D Sheet”) “我投訴 Assistant Director A 監管手下不力，影響我呢件案件的調查的公平性”。 In the evening on the same day, the third cautioned interview with Mr X was conducted and shortly afterwards he was released on ICAC bail.

5. Following the complaint of Mr X, he was interviewed by the ICAC Internal Investigation and Monitoring Group (“L Group”) and gave a statement on another specified date in October 2012. He stated that after his arrest at his residence on the first day of the arrest, Chief Investigator B seized nine thumb drives and several SD cards from his briefcase, and provided him with a seizure list (“the Seizure List”) afterwards. Allegedly, Chief Investigator B had only recorded in the Seizure List the quantity of these storage media, but not detailed descriptions including their brand name, model number, storage capacity and data size. Mr X opined that the description was too brief for identification purposes [allegation (b)].

6. Besides, on the second day of the arrest at about 1200 hours while Mr X was being detained in the DC, he requested a further interview as he wished to provide additional information in respect of the allegations against him. About two hours later, he repeated his request. Chief Investigator B then met him in the DC and told him that arrangement was being made. Up until about 1700 hours, Mr X's request for a further interview was still not acceded to. Mr X stated that as Assistant Director A should be responsible for supervising the investigating section, he decided to lodge a complaint against Assistant Director A even though there was no contact between him and Assistant Director A in the course of the ICAC operation. However, Mr X gave no elaboration as to why the complaint as recorded in the A/D Sheet (paragraph 4 refers) was different from the term of the complaint set out in his statement [allegation (a)]. Although the Team had eventually conducted the third cautioned interview with Mr X at about 1900 hours, he stated that due to the lapse of time, he had forgotten what additional information he intended to supplement. He therefore refused to answer any further question in the interview. He alleged that Chief Investigator B had deprived him of an opportunity to provide additional information favourable to him [allegation (c)].

7. Since Mr X was a suspect arrested in a then on-going corruption investigation, according to the established procedure, L Group had sought legal advice from the Department of Justice as to whether Mr X's complaint was sub-judice in nature. On a specified date in November 2012, the Department of Justice advised that the complaint was sub-judice in nature. On a later date in November 2012, L Group informed Mr X by letter of the same and that investigation into his complaint would be held in abeyance in the meantime. On a specified date in June 2013, legal advice sought by the investigating section precluded prosecution against Mr X. On a specified date in July 2013, the Operations Review Committee<sup>1</sup> endorsed that no further investigative action should be pursued. L Group investigation on Mr X's complaint then commenced.

## **INVESTIGATION OF THE COMPLAINT**

8. Chief Investigator B was interviewed by L Group and denied allegations (b) and (c). Regarding allegation (b), he stated that on the first day of the arrest during the search at Mr X's residence, nine thumb drives, six SD cards and a mobile phone were, among other things, seized. Some of the thumb drives and SD cards however did not bear any distinctive identifying information, for example, brand name, model number or storage capacity. After the home search, Mr X was escorted to the DC for documentation. At 0833 hours on the same day, the Seizure List and the Acknowledgement of Seizures, both prepared by Investigator C and Assistant Investigator D, were served on Mr X inside the DC. Chief Investigator B could not recall whether he had sighted the Seizure List before Mr X appended his signature on the documents, but he noticed that Mr X had spent some time to meticulously examine the seizures against the Seizure List. Throughout the whole process, Mr X had not expressed his concern on the descriptions of the seizures. Likewise, during the subsequent interviews and the whole period of detention, Mr X had not made any complaint on this issue.

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<sup>1</sup> The Operations Review Committee oversees all the ICAC corruption investigations.

9. Chief Investigator B further explained that Mr X was interviewed under caution twice by the Team on the first day of the arrest. During the interview, Mr X stated that one of the suspects in the case had asked him implicitly if he would take bribe to support that suspect in an event. Mr X denied that he had solicited money from that suspect but he might have mentioned some numbers to that suspect relating to other matters. Mr X further claimed that such dialogues with that suspect were made over the phone and exchanged by telephone messages. As such, Chief Investigator B regarded the messages stored in Mr X's mobile phone as important evidence. The mobile phone as well as other electronic devices / storage media seized were delivered to the Computer Forensic Section for examination on the same day.

10. As regards allegation (c), Chief Investigator B stated that in the morning of the second day of Mr X's arrest, he was informed by the Operation Control which oversaw and co-ordinated the operation that Mr X requested to see the Team. Chief Investigator B then assigned Investigator C and Assistant Investigator D to meet him. Investigator C later reported to Chief Investigator B that Mr X requested a further interview to clarify certain issues in his previous interview(s). At 1255 hours, Chief Investigator B and Investigator C met Mr X at the DC upon his request. Among other things, Mr X again requested an interview and bail. Chief Investigator B explained to Mr X about the bail procedure and further asked Mr X if he had any special reason for requesting an interview. He indicated that he merely wished to clarify some issues in the previous interview(s). Chief Investigator B hence told Mr X that an interview would likely take place in the afternoon, and in the interim, the Team would examine the mobile phone, electronic devices / storage media seized from him, and the information extracted therefrom might assist him in advancing his explanations on the allegations. Mr X acknowledged that it would take some time for the arrangement of the interview. Besides, Chief Investigator B was aware, as recorded in the A/D Sheet, that Mr X had obtained pencil and paper from the Guarding Officer of the DC the previous evening. He therefore advised Mr X to make some notes of the additional information he intended to supplement in the forthcoming interview.

11. Chief Investigator B stated that the first two cautioned interviews conducted on the first day of the arrest centred on the telephone conversations and message exchanges between Mr X and the relevant suspect. In this connection, the information retrieved from the mobile phone and the electronic devices / storage media of Mr X would be important reference for the purpose of the further interview. Chief Investigator B therefore decided to conduct the further interview only when the retrieved information was available.

12. In the afternoon of the second day of the arrest, the Team was engaged in examining the information retrieved from the mobile phone and the electronic devices / storage media seized. According to Chief Investigator B, it was originally expected that the examination could be completed by lunch time. However, due to the large volume of data, the examination took longer time and was not completed until the evening. In the afternoon, Chief Investigator B was also engaged in a debriefing session in the Operation Control for about 90 minutes. During the session, he had reported that the Team was engaged in seizure examination and that Mr X would be further interviewed afterwards. He however had not mentioned about Mr X's earlier request for an interview. After completion of the examination, Mr X was interviewed by the Team at 1913 hours. He however refused to respond to the retrieved information put to him.

13. Investigator C and Assistant Investigator D were interviewed. Their versions corroborated the above account of Chief Investigator B. Regarding allegation (b), they recalled that some of the thumb drives and SD cards did not bear any label or identifying information. It was thus not feasible to list each item in clear terms. They therefore decided that nine thumb drives be grouped as one item and the six SD cards be grouped as another, with an ICAC reference assigned to each of the two items. Assistant Investigator D, who was responsible for compiling the Seizure List and the Acknowledgement of Seizures, stated that both documents were not scrutinised by Chief Investigator B because she and Investigator C had been assigned to take charge of the task. After Investigator C had checked that the contents in the two documents were in order, she served them on Mr X who confirmed the accuracy and appended his signature thereon. Both Investigator C and Assistant Investigator D recalled that Mr X had checked each seizure against the description on the Seizure List and made no complaint that any of the descriptions were too brief or not precise. As regards allegation (c), Investigator C confirmed that he had reported to Chief Investigator B that Mr X requested a cautioned interview to clarify some issues relating to the previous interview(s) when he met Mr X in the DC at 1122 hours on the second day of the arrest. He together with Chief Investigator B met Mr X in the DC at 1255 hours on the same day, when Mr X reiterated the same request for an interview to Chief Investigator B. Chief Investigator B then informed Mr X that the mobile phone, electronic devices / storage media seized from him were being examined and an interview would be arranged after lunch.

14. As regards allegation (a), Acting Chief Investigator E of the investigating section was the case officer of the two corruption reports. Her supervisor was Acting Principal Investigator F of the investigating group which oversaw the investigating section. The investigating group is one of the four investigating groups in an Investigation Branch which at that time was under the command of Assistant Director A. When interviewed, Acting Principal Investigator F and Acting Chief Investigator E stated that both corruption reports were investigated by the investigating section. Subsequent investigation tended to support the corrupt involvement of Mr X culminating in an ICAC operation during which Mr X, among others, was arrested and his residence and office premises searched pursuant to court warrants. Both officers confirmed that the Operation Control was commanded by them without the involvement of Assistant Director A, and that they were not aware that Mr X had requested a further interview during his detention.

15. When interviewed, Assistant Director A denied allegation (a) and stated that the corruption reports were assigned to the investigating section for investigation under the supervision of Acting Chief Investigator E who in turn reported to Acting Principal Investigator F. He confirmed that he endorsed the conduct of the operation as investigation had revealed reasonable suspicion that Mr X and others might have committed offences under the law. Assistant Director A also confirmed that he was not aware that Mr X had requested a further interview during his detention.

16. The relevant investigation files and Mr X's A/D Sheet were examined. According to the A/D Sheet, between 0755 and 0834 hours on the first day of the arrest, Mr X was brought to the DC for search and documentation. According to the Seizure List, at 0833 hours (i.e. just before the search and documentation at the DC were concluded), the Seizure List and the Acknowledgement of Seizures were served on Mr X. The Seizure List was handwritten by Assistant Investigator D and the two items in

issue read “Six memory storage cards” and “Nine USB storage devices”. Mr X’s signature was appended thereon to confirm the accuracy. The two items were subsequently returned to Mr X on a specified date in July 2013 after conclusion of the investigation. He did not raise any issue that the two items returned were not the same as those seized from him on the first day of the arrest.

17. The Commission Standing Orders<sup>2</sup> stipulated that it is of particular importance for an accurate record to be made of any seizures, especially when money or valuable property is involved, and that each item of property should have an exhibit label attached to it.

18. According to the A/D Sheet, two cautioned interviews were conducted with Mr X on the first day of the arrest. At 1128 hours on the second day of the arrest, Mr X requested a further interview, in response to which Investigator C told him that it would be arranged. At 1255 hours, Chief Investigator B and Investigator C met Mr X at the DC, when Mr X reiterated his request for a further interview. He was told that the interview would be arranged after lunch. At 1710 hours on the same day, Investigator C and Assistant Investigator D met Mr X at the DC, who requested to call his solicitor and his wife. The requests were acceded to. On that occasion, Mr X did not raise the request for a further interview again. Between 1913 and 1925 hours, Mr X attended the third cautioned interview conducted by the Team.

## **ASSESSMENT OF THE COMPLAINT**

19. Regarding allegation (a), L Group enquiries confirmed that the two corruption reports against Mr X were investigated according to established procedure, and that enquiries had revealed reasonable suspicion that Mr X and others might have committed the relevant corruption offences. The findings led to the decision of a search and arrest operation involving Mr X, which was endorsed by Assistant Director A. However, it was Acting Principal Investigator F and Acting Chief Investigator E, not Assistant Director A, who were in charge of the conduct of the operation. Moreover, none of them were made aware that Mr X had requested a further interview in the morning of the second day of the arrest. Other than Mr X’s own assertion, there is nothing to suggest that the institution of the corruption investigation against him was unreasonable, or that there was any irregularity on the part of Assistant Director A. In this connection, allegation (a) is not substantiated.

20. Regarding allegation (b), the descriptions shown in the Seizure List in relation to the thumb drives and SD cards seized from Mr X are considered too brief and not meeting the requirement set out in the Commission Standing Orders. The officers should have itemised every single thumb drive and SD card according to its available descriptive information, for example, brand name, model number and storage capacity. For items which bear no identifying particulars, they should be labelled and listed individually. As to “data size” which Mr X reckoned should also be included in the description, it is considered not practicable since such information could only be retrieved after the storage media were examined by computer forensic tools and hence

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2 Following the complaint, the relevant part of the Commission Standing Orders was reviewed and further refined, on a specified date in October 2013, to provide additional guidance to investigating officers on the description of seizures, i.e. all descriptions must be sufficient to distinguish one piece of property from another.



not available at the time the Seizure List was being compiled. According to Assistant Investigator D, she was responsible for preparing the Seizure List and the Acknowledgement of Seizures. The documents were checked by Investigator C but not scrutinised by Chief Investigator B before they were served on Mr X. In the given circumstances, allegation (b) is not substantiated against Chief Investigator B but instead substantiated against Investigator C and Assistant Investigator D. Both Investigator C and Assistant Investigator D should be given advice by a senior officer in this regard.

21. Regarding allegation (c), L Group enquiries revealed that due to the need to examine the mobile phone and electronic devices / storage media seized from Mr X, as well as the operational briefing that Chief Investigator B had to attend, the further interview requested by Mr X at about noon of the second day of arrest had been deferred from the afternoon to the evening. Mr X was eventually interviewed under caution at 1913 hours, but he chose to remain silent as he stated that he had forgotten what to say due to lapse of time. However, it is noted that at his own request, Mr X had been supplied with writing materials the previous day, which he could have used for making notes to assist his further interview. The officers' explanations concerning the deferment of the further interview are well-grounded and reasonable, and it could not be said that Chief Investigator B had unreasonably deprived Mr X of an opportunity to provide additional information favourable to him in respect of the corruption investigation. Allegation (c) is therefore not substantiated. Nevertheless, to avoid unnecessary misunderstanding, Chief Investigator B could have informed Mr X earlier when he came to know that the deferment of the further interview became unavoidable. In this regard, Chief Investigator B should be given advice.

## **CONCLUSION**

22. The Commissioner of the ICAC agreed that allegations (a) and (c) are not substantiated and allegation (b) is not substantiated against Chief Investigator B but instead substantiated against Investigator C and Assistant Investigator D. The ICAC Complaints Committee endorsed the conclusion of the investigation by the ICAC. Mr X was informed of the result of the investigation in writing. Concerning allegation (b), Investigator C and Assistant Investigator D were given advice by a senior officer as to how to make proper record of seizures. Concerning allegation (c), Chief Investigator B was advised that he could have informed Mr X earlier of the deferment of the further interview in order to avoid any possible misunderstanding.