

To: Mr. Tang King-shing
Commissioner of Police
Hong Kong Police Force

23 March 2009

Dear Mr. Tang,

Re: Gun shooting incident reflects police's lack of racial sensitivity

We, a group of Hong Kong ethnic minority residents, are writing to express our deep regret and frustration as well as anger towards the gun shooting incident happened on 17 March 2009 which caused the death of a Nepalese resident. This tragedy has once again shown the lack of due respect towards ethnic minorities residents by police officers in Hong Kong.

As ethnic minority residents living in Hong Kong, we sincerely believe that we deserve fair and proper treatment from police officers. Yet the reality is the opposite. With a few exceptions, police officers in general do not take our language difficulties into account and only speak Cantonese to us. To make the matter worse, many of them hold discriminatory attitude towards ethnic minorities. And some even say insulting and racist words to us. (For examples about police discriminatory practice, please refer to our appendix.)

Concerning the gun shooting tragedy, it is clear that although the police officer realized that the victim is a South Asian, still gave warnings in Cantonese. In addition, given the victim's unstable mental state, one could hardly expect he could understand the warning. Under such circumstances, we question the professional judgment of the police officer and the legitimacy of his gun shooting behaviour.

This tragedy has raised the question on police officers' cultural sensitivity. As minority groups in Hong Kong, we are feeling less and less insecure. In fact, the reaction of your Department has made us feel even more frustrated. From the various media reports, it seems that your Department has portrayed the victim as a "highly dangerous person" and the police officer has done nothing wrong in shooting him.

We believe it is our basic human right not to be discriminated due to our race. Article 2(1)(a) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) provides that the Administration should ensure all public authorities and institutions to engage in no act or practice of racial discrimination. With the Race Discrimination Ordinance taking effect very soon, it is high time for your Department to review your existing policy and practice, and to take the necessary measures to eliminate race discrimination.

In the light of the above circumstances, we strongly request your Department,

- 1) to stop disclosing the victim's details to the media, so that the subsequent inquest hearing would not be affected;
- 2) to conduct a thorough and objective investigation regarding the tragedy;
- 3) to strengthen racial sensitivity training among the police force;
- 4) to adopt measures to ensure appropriate language communication would be possible between the police officers and the person in contact, and to have due respect and regard when dealing with ethnic minority residents;
- 5) to prepare an operational manual or guideline for frontline police officers dealing with ethnic minorities people, so as to ensure zero racial discrimination in daily practice;
- 6) to take steps to ensure the present police complaint mechanism remain racially and culturally sensitive;
- 7) to recruit ethnic minority residents as frontline police officers, so that the latter could act as a bridge between police force and ethnic minorities.

We sincerely hope that you could recognize our frustration. To enhance our understanding and communication, we would also like you, as the Commissioner of Police, to have a meeting with our representatives and Hong Kong Unison by the end of this month.

Should you have any questions, please contact our social worker, Ms Fermi Wong of Hong Kong Unison (tel. no: 2789 3246). We look forward to hearing your reply.

Yours sincerely,

A group of Hong Kong Ethnic Minority residents

C.C.

Chief Executive

Members of Executive Council

Members of Legislative Council

Secretary for Security

Secretary for Constitutional and Mainland Affairs

Encl.

Submission to LegCo

Unison's views on the operation of the Independent Police Complaints Council (IPCC)

A. Forward

Hong Kong Unison (Unison) is a non-governmental organization which aims at promoting ethnic equality and harmony through policy advocacy and public education, and also provides direct social services to local ethnic minority residents. In the following, we would like to share some of the information we have collected through our casework intervention, and our opinions towards Independent Police Complaints Council (IPCC).

B. Ethnic minority Residents are discriminated by police officers

1) Arrest

1.1) Law enforcement targeted at ethnic minorities

Some police officers claimed that because of the differences in appearance and clothing of ethnic minorities, they are more easily targeted by the police for questioning and searching comparing with their Chinese counterparts.

1.2) Deliberate provocation during arrestment

Attitudes of frontline police officers are often offensive and provocative towards ethnic minorities by calling them "Ah Cha" and using foul languages. This then would result in repulse and fear on the part of the minority members being examined. If ethnic minorities raised any queries, the police officer would be very rude to them and accuse them for challenging the police (such as 'Si Cha Zai 死差仔, here's no room for you to challenge me!'). Some police officers would even use violence during the arrest, and when ethnic minorities tried to protect themselves, they would be charged with 'assaulting a police officer' or 'behave disorderly in public place';

1.3) Illegal use of force and refusal for medical examination

Arrested ethnic minorities, especially youth, were often treated with violence, and forbidden from going to the hospital for medical examination. In 2007, a Pakistani youth was arrested for confronting the police during ID check on the street when the police called him 'Si Cha Zai' (死差仔) and used foul languages. He was then beaten up and spit blood in the police station. When the youth requested to go to the hospital for medical examination, the police only gave him two options: either go to the hospital or return home on bail. Since he was detained for nearly 48 hours and his family was very worried about him, so he decided to drop the request for medical examination but choose to return home on bail. In fact, this is not a single case. When arrested ethnic minorities asked for medical examination in hospital (especially for injuries caused by police), many of them would be denied such right. Police officers would often say, "don't you play tricks, Si Cha Zai".

1.4) Excessive use of handcuff

Handcuffs are commonly used by police officers in arresting ethnic minorities. We had a case of a 17-year-old Nepalese who received a summons due to placing domestic garbage in the public garbage. However, as she was a new arrival to Hong Kong, she could not understand the summons and missed paying the fine. She was then wanted by the court.

The police came to arrest her at home in the mid-night. She was made to walk from her house to the police station, handcuffed the whole way through. The ordeal caused the girl much distress and humiliation.

In another case, a 14-year-old Nepalese was accused of loitering. Four police officers were sent to arrest him and he was handcuffed. Both the boy and his father suffered distress and humiliation.

1.5) Arbitrary arrestment

Frontline police officers lack knowledge of ethnic minorities. We had received cases in which an innocent member of a certain ethnic community was arrested simply because the officers thought he looked “similar” to the suspect, who in fact was from another ethnic group. We have a case in which an Indian was arrested because a burglary took place near the construction site where he worked. The suspect was said to be a South Asian and the police thus arrested him. Even though he had proof of alibi, the police still detained him for 48 hours.

1.6) House search without warrant and causing damages

We have received calls for help, stating that the police asked for house search in the middle of the night but without providing a warrant. The search brought not only disturbance, but had also upset the household with its furniture damaged. However, the police did not give any compensation.

2) Charging Process

2.1) Ethnic minorities do not know their right to silence

Even though police officers would normally follow the procedure and notify arrestees of their right to silence, they however do not explain the right to members of the ethnic minority communities who often do not understand what such right means.

2.2) Mislead ethnic minorities into admitting an offence

Some ethnic minorities have been persuaded by the police that if they admit the crime, they would be released (If you admit the crime, I will let you go home.). For the sake of going home, they would then sign the confession statement. Sometimes, the police would tell them “it is minor offence, you just admit you’ve done it, I’ll not send you to the court”. But it is obvious that in the end, the arrestees would still be sent to the court.

Another situation is when ethnic minorities apologize to police officers out of worry or fear, or when

they plead officers for “a chance” by saying. “Sorry sir, please give me a chance, let me go home”, the police officers would then take this as admitting the offence, “because you committed the crime, so you say sorry to me.” Our clients would then be demanded to confess and sign the statement.

2.3) Not allowed to make external contacts

Clients informed us of their experiences of arrest by police. They were not allowed to make external contacts, including with their families. When they requested to contact lawyers, police officers would query and stop them by saying either, “Ah Cha, do you have any money to hire lawyers,?” or, “No lawyers will be willing to help, Ah Cha.”

2.4) Sign first, then translate

We were told by clients of their experiences being requested to sign statements drafted by police officers before interpreters were brought in to translate those statements. The practice had obviously violated the statutory procedures. However, our clients were misled to sign the statements as they lacked understanding of their rights and of the proper procedures.

2.5) Lack of neutrality and varied quality of interpreters

Some of the interpreters called in by the police did not maintain neutrality. As they interpreted, they often requested the clients to speak less but confess as soon as possible. They might even reprimand the clients as “disgracing their own folks” or “shaming fellow clansmen”, claiming that “this is the place of Chinese people, you might as well go home (back to the native town)”. Feeling dejected, our clients often could not state their situation properly which subsequently led to injustice. Sometimes interpreters might even, either intentionally or unintentionally, misled the arrested into believing that they were part of the police force.

2.6) Police unable to provide proper interpretation

We were informed by one of our Indian young clients that the police only managed to provide Chinese or Urdu interpreters when taking his statements. The police officers claimed they were unable to provide any interpretation in “Indian language”. Our clients were forced to make their statements in English, a language in which they do not comprehend

2.7) Bundled handling

In some cases, the police officers in charge, when handling a number of ethnic minority youngsters, told the arrested, “If you all confess, I can grant you a binding over order or exercise the Police Superintendents' Discretionary Scheme.” But if anyone of you refuses to accept the arrangement, we will pass the case onto the Secretary of Justice for prosecution.” It was a common method used to intimidate the arrested and obtain their confession.

3) Other abuses

3.1) Police Officers refuse to provide any necessary information to our clients who had grievances with police.

Police officers often refused to give their numbers to our clients who had grievances with them or questioned their ways of handling cases. This made it hard for our clients to file any complaint against the officers.

3.2) Pestered when applying for bail

Our clients reported that when they went to extend their bail, they would have to wait for a few hours even though they had arrived punctually as requested by police officers. More than one occasions, our client's time was wasted as the officer-in-charge went away to work and got off duty without notifying him.

3.3) Nuisances caused by incessant requests to bail-extension

A client informed us that after being charged by the police, he was repeatedly required to report to the police station for about 6 months, causing much nuisance to him and his family. His father was dismissed by his employer for having to take leaves all the time to accompany the son to the police station. In the end, the police discharged the client due to lack of adequate evidence. The family, however, had already suffered the extremely adverse consequences of the case.

3.4) Call ethnic minority residents "Ah Cha" and use foul language

Police officers often call members of the ethnic minority communities "Ah Cha" and name cases related to them as "Ah Cha cases". Some officers even use humiliating Cantonese-style, sex-bound foul languages to insult the ethnic minorities. Since many ethnic minorities are Muslims, such languages are extremely offensive. Unfortunately, police officers seem not to bother about their feeling or even take pleasure in doing so.

3.5) Duty Officers refused to file complaints from "Ah Cha"

An ethnic minority youth and his parents intended to complain against the police officer that handled his bail-extension with deliberate delays and harassment. The duty officer, however, refused to handle claiming that he would not take complaints from any "Ah Cha".

When we telephoned the duty officer, he refused to come to the report room to take our call and complaint.

C. CAPO fails to handle and follow the above noted situations

1) Police being investigated by police

Clients told Unison that they preferred not to file complaints with the Complaints Against Police Office (CAPO) because CAPO formed part of the police force. They had no confidence in “police being investigated by police”, a process which lacked credibility.

2) Worrying about revenge

Our clients were unwilling to file complaints with CAPO also because CAPO would inform police officers at stake of the complaints against them. It was hence our clients’ worry that the officers might abuse their public power to retaliate.

3) Unable to provide information for follow-up

Clients sometimes failed to launch complaints successfully at CAPO either because they were not aware that police numbers of the officers-to-be-complained were required, or because officers concerned had actually refused to provide their numbers. According to CAPO, cases of this kind would not be followed due to mistaken or insufficient information.

4) Harassment by officers from CAPO

We had clients who received incessant calls from CAPO to ask if they really intended to persist with their complaints. The clients felt pestered and eventually dropped the complaints.

D. Our comments on the operation of the Independent Police Complaints Council (IPCC)

1) Proposed Bill does not take problems seriously

The Bill suggests for IPCC to be operating independently. However, it confines the Council’s role to “observe, monitor and review the manner in which reportable complaints are handled or investigated by the Commissioner, and to make recommendations...” As complaints against police will still be handled by CAPO, problems and difficulties encountered by our clients as we listed here above will remain un-resolved.

2) Complaints against police to be investigated by the Independent Police Complaints Council (IPCC, the Council)

The Unison is of the opinion that IPCC should be empowered to receive complaints and conduct independent investigation. This is to help resolve the problem of “police being investigated by police” and restore the credibility of the police force as well as the public’s confidence towards them.

3)Request to add clause for representatives from the ethnic communities to be appointed

The Bill regulates the number of council members that the Chief Executive is to appoint for IPCC. We request that clauses should be added in the Bill to render certain proportion of the seats in the Council be taken by representatives of the ethnic minority community. This is to facilitate IPCC in its handling of complaints by ethnic minorities.

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