

*For information*

**Legislative Council Panel on Security**

**Findings of the review conducted by Advisory Committee on Corruption  
on the disciplinary actions taken against ICAC officers arising from  
a case of non-compliance with the relevant requirement of the  
Interception of Communications and Surveillance Ordinance**

At a special meeting on 7 December 2009, the Panel on Security (**the Panel**) requested for the findings of the review conducted by the Advisory Committee on Corruption (**ACOC**) on the disciplinary case in which the Commissioner on Interception of Communications and Surveillance considered the disciplinary treatments of various offending officers unequal and disparate.

----- We have consulted the ACOC which has agreed that relevant information of the review as contained in the paper at the Appendix be provided to the Panel for information.

**Independent Commission Against Corruption  
May 2010**

**Findings of the review conducted by Advisory Committee on Corruption on the disciplinary actions taken against ICAC officers arising from a case of non-compliance with the relevant requirement of the Interception of Communications and Surveillance Ordinance**

This paper is submitted in response to the request of the Panel on Security (**the Panel**) of the Legislative Council, made at the special Panel meeting held on 7 December 2009, for the findings of the review conducted by the Advisory Committee on Corruption (**ACOC**) on the disciplinary case in which the Commissioner on Interception of Communications and Surveillance (**C/ICS**) considered the disciplinary treatments of various offending officers unequal and disparate.

2. Directed by the Chief Executive (**CE**), ICAC invited the ACOC<sup>1</sup> to review the appropriateness of the disciplinary actions taken on the above disciplinary case.

3. The ACOC was provided with all relevant information, including a factual report of the case with a detailed chronology of events, deliberations of ICAC in taking the disciplinary actions against individual officers as well as the views and observations of C/ICS, based upon which an independent review was conducted on 12 August 2009.

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<sup>1</sup> The ACOC comprises ten non-official members, with the Honourable Mrs Laura CHA as its chairman. The terms of reference of ACOC are as follows:

- (i) To advise the Commissioner of the Independent Commission Against Corruption on any aspect of the problem of corruption in Hong Kong, and, to this end :
  - (a) to keep the operational, staffing and administrative policies of the Commission under review;
  - (b) to advise on action being considered by the Commissioner under section 8(2) of the Independent Commission Against Corruption Ordinance;
  - (c) to receive reports by the Commissioner on disciplinary action taken;
  - (d) to consider the annual estimates of expenditure of the Commission;
  - (e) to scrutinise the annual report of the Commission before its submission to the Chief Executive; and
  - (f) to submit an annual report to the Chief Executive on the work of the Committee.
- (ii) To draw to the Chief Executive's attention, as it considers necessary, any aspect of the work of the Commission or any problem encountered by it.

4. During its deliberations, the ACOC noted C/ICS's expressed concern that the disciplinary treatments of various offending officers were unequal and disparate. The ACOC also noted that Commissioner, Independent Commission Against Corruption, having taken into account C/ICS's views, considered that the disciplinary treatments were appropriate and properly administered.

5. Noting that there was a range of punishment for the misconduct in this case, the ACOC took the view that different persons might have different views on what constituted the most appropriate level of punishment for individual officers. Furthermore, since an appeal mechanism existed within ICAC's disciplinary procedure which affected officers may invoke if they wish to, the ACOC considered it outside its role to substitute its view on the appropriateness of the level of punishment unless ICAC had gone beyond the legitimate range of punishment. Having examined all the relevant facts of the case, including the different roles and responsibilities of the officers involved in the process, the circumstances leading to the unauthorized interception, the gravity of their mistakes, ICAC's considerations and the rationale behind the different levels of punishment imposed on the officers, as well as the views and observations of C/ICS, the ACOC concluded that ICAC had acted within the legitimate range and was in consensus that ICAC had handled the case reasonably and appropriately.

6. On 29 September 2009, ACOC tendered its advice to the CE.