

**WRITTEN SUBMISSION AND TO ATTEND MEETING  
FOR VIEWS ON THE POLICE (DISCIPLINE)  
(AMENDMENT) REGULATION 2012 (L.N.59)  
[On Saturday, 26 May 2012 at 9:00 am]**

**THE AMENDMENT**

The Police (Discipline) (Amendment) Regulation 2012 (“P(D)(A)R”) provides an improved mechanism to enhance the Disciplinary Proceedings of a Defaulter’s case are heard impartially, where fairness so requires.

**CAUSE FOR THE AMENDMENT**

2. However, I am obliged to say that these amendments were actually directed to be amended by the Administration as quoted by the then **Chief Secretary**, the Honourable Sir David Robert Ford, K.B.E., L.V.O., J.P., when he addressed the Hong Kong Legislative Council Meeting on Wednesday, **5 June 1991** at 2:30 pm, Chaired by the then **His Excellency the Governor (President)** Sir David Clive Wilson, G.C.M.G., **some 21 years ago**, as stated in the *‘Official Report of Proceedings’* on pages 60 - 61, reproduced for easy reference as follows:

... *“The Administration had number of key objectives:*

*First, to ensure that the Bill of Rights reflected the provisions of the International Covenant as applied to Hong Kong;*

*Secondly, to ensure that the Bill of Rights would be a practical and effective law;*

*Thirdly, to ensure that legitimate concerns were fully taken into account;*

*Fourthly, to ensure that the Bill of Rights was in full compliance with the Joint Declaration;*

*Finally, to meet apparent concerns about the status of the Bill of Rights, particularly as regards the Basic Law.*

*To satisfy the last objective, we have made sure that the Bill has, as a matter of law, a status the same as other Ordinances, and we will introduce certain amendments...the Bill is fully consistent with the ICCPR as applied to Hong Kong. That is particularly important, for both the Joint Declaration and the Basic Law make specific reference to that Covenant, requiring its continued application beyond 1997. And we have tried to ensure that there are no procedural clauses which run the risk of conflict with the Basic Law.*

*It is equally important to appreciate the manner in which this Bill fits into wider mosaic which will serve to provide an effective safeguard for civil rights. The scheme of safeguards operates in three phases. The Bill of Rights itself will have an impact on existing laws. Existing laws which are inconsistent with Bill of Rights will be amended or repealed by it to the extent of any such inconsistency. ...”*

## **REPERCUSSIONS FOR THE LATE AMENDMENT**

3. My point is to state that had these instructions been timely followed-up by the then **Secretary for Security**, the Honourable Ian Robert Strachan, J.P., with the respective Head of Departments of the Disciplined Services, then there would NOT have been the LAM Siu-po's case [FACV No. 9 of 2008] NOR would there be the surfacing of us **161 Mutual Rights Organization (MRO) Members** today because we would had been subjected to the amended version of the P(D)(A)R, made then in 1991, during our individual Disciplinary Proceedings faced thereafter.

## **DISCIPLINARY HEARINGS BEFORE THE AMENDMENT**

4. Prior to the P(D)(A)R, Junior Police Officers (JPOs) were harshly treated by the Prosecution and also by the Adjudicating Officer (AO), being of a junior rank, they were often deprived of the opportunity to fairly defend their cases. Since the Court of Final Appeal (CFA) ruling on the LAM Siu-po's case came in March 2009 where legal representation is allowed, their case(s) can now be fairly defended through the lawyer(s) whilst the Prosecution and the AO both give respect to the Defense side, thereby maintaining fairness during Disciplinary Proceedings.

5. Since the CFA ruling in March 2009, 161 cases came to light from 2002 – 2009 where all of these cases have either most or similar (cases before 2002 also) elements of the disciplinary charge as those of LAM Siu-po and these Ex-Police Officers have formed and joined the MRO, a lawfully registered society, to share their experience in a bid to hopefully seek relief one day. As Chairman of the MRO, I represent 161 Members and I can see that most of these cases are innocent and have been unfairly, unlawfully and unconstitutionally treated under the old Police (Discipline) Regulations (P(D)R), the result of which has caused not only the **termination of their employment** but also the **loss of their pension rights**.

6. This had a serious impact on their families' livelihood resulting in broken-up families and according to a reliable newspaper resource, a few of these members have already committed suicides in recent years, due to being unable to take-on further stress.

#### **ACTIONS CONTEMPLATING REPUTATION**

7. Since March 2009, we have considered applying for Judicial Review but was turned down for reason of "Out of Time". As a good Government and a responsible Police Force, they should have come out and assisted us to **rectify the "Administration's Oversight" in this matter** but over the last three years, they have not only done nothing [when the need to review past cases, to ensure fairness to the defaulters who had been unfairly denied legal representation in disciplinary proceedings in the past, has been set in motion in **paragraphs 35 – 39** of the minutes of Legislative Council Meeting held on 20 December 2010 at 10:45 am (**LC Paper No. CB(1)1111/10-11** and Ref: CB1/PL/PS/1 compiled by Council Business Division 1, Legislative Council Secretariat dated 15 February 2011 refer)] to help us, they are not even willing to talk to us, which is the reason why we have to knock on the door of the Legislative Council. **Since this is the case, then what is the difference between this Government and that of the Philippine's**. This will just hamper and jeopardize the reputation of Hong Kong and that of China, Internationally.

## CONCLUSION

8. We hope you, **Hon LAU Kong-wah, Chairman** can help us and our families to achieve our request.  
Thank You Chairman, Ladies and Gentlemen.

*Pronunciation in Chinese* – translation of para 8 – to be said in Chinese:

**["Hei Mong Lei, Chu Chik (Chairman), Ngor Tei Thai Chut Ke Yiu Kau, Ho Yee Pong Ngor Tei Tung Ngor Tei Ke Ka Yan. Dor Tse Chu Chik, Tung Kwok Wai"]**

Prepared By:



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**MRO Chairman**

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Dated: 22<sup>nd</sup> May 2012