



ICAC Complaints Committee

ANNUAL REPORT

2022

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FOREWORD BY THE CHAIRMAN



I am pleased to present the twenty-eighth report of the Independent Commission Against Corruption (ICAC) Complaints Committee (“the Committee”) in the capacity of the Chairman of the Committee. The Committee’s major responsibility is to monitor, and where it considers appropriate to review, the ICAC’s handling of all non-criminal complaints against the ICAC and its officers. This annual report provides an account of the work of the Committee in the year 2022.

In 2022, the Committee held three meetings to consider investigation and assessment reports on the complaints received. Through examination of the issues brought up in the complaints, both the ICAC and the Committee have carefully scrutinised the ICAC’s relevant internal procedures, guidelines and practices to see whether there is the need for updating, clarifications or formalisation, with a view to making improvements. The Committee has also paid a visit to the ICAC Headquarters with a view to enhancing our understanding on the operation of the ICAC.

Through the publication of annual reports, we hope that the public would have a more thorough understanding of the work of the committee. If members of the public have any views and/or suggestions on the work of the Committee, you are most welcome to contact us through the Committee Secretariat.

Dr the Hon LAM Ching-choi, SBS, JP
Chairman, ICAC Complaints Committee

ICAC COMPLAINTS COMMITTEE

Established on 1 December 1977, the ICAC Complaints Committee (“the Committee”) is responsible for monitoring and reviewing the handling by the ICAC of non-criminal complaints against the ICAC and its officers. The Committee comprises Executive Council and Legislative Council members as well as eminent members of the community appointed by the Chief Executive. From 1996 onwards, the Committee submits an annual report to the Chief Executive to provide an account of its work in the preceding year. The annual reports are also tabled in the Legislative Council and made available to the general public as a measure to enhance the transparency and accountability of the Committee.

TERMS OF REFERENCE

To monitor, and where the Committee considers appropriate to review, the handling by the ICAC of non-criminal complaints by anyone against the ICAC and officers of the ICAC.

To identify any faults in ICAC procedures which lead or might lead to complaints.

When the Committee considers appropriate, to make recommendations to the Commissioner of the ICAC, or when considered necessary, to the Chief Executive.

MEMBERSHIP



Front Row

(From left to right) Ms Connie LAU Yin-hing; Hon Steven HO Chun-yin; Hon Eunice YUNG Hoi-yan; Dr the Hon LAM Ching-choi; Mr WOO Ying-ming (Representative of the ICAC); Dr the Hon TIK Chi-yuen; Mr Stephen YIU Kin-wah

Back Row

(From left to right) Mr KOO Chor-shing (Assistant Committee Secretary); Ms Iris YICK Pui-yin (Committee Secretary); Mr LAU Chun-hung; Mr Laurence LI Lu-jen; Mr CHAK Shui-hang (Representative of The Ombudsman); Mr CHOI Shu-keung and Ms Wendy YIP Lai-lin (Representatives of the ICAC)

Membership List (effective from 1 March 2022)

Chairman : Dr the Hon LAM Ching-choi, SBS, JP

Members : The Hon Steven HO Chun-yin, BBS, JP

Mr LAU Chun-hung, MH

Ms Connie LAU Yin-hing, SBS, JP

Mr Laurence LI Lu-jen, SC, JP

Dr the Hon TIK Chi-yuen, SBS, JP

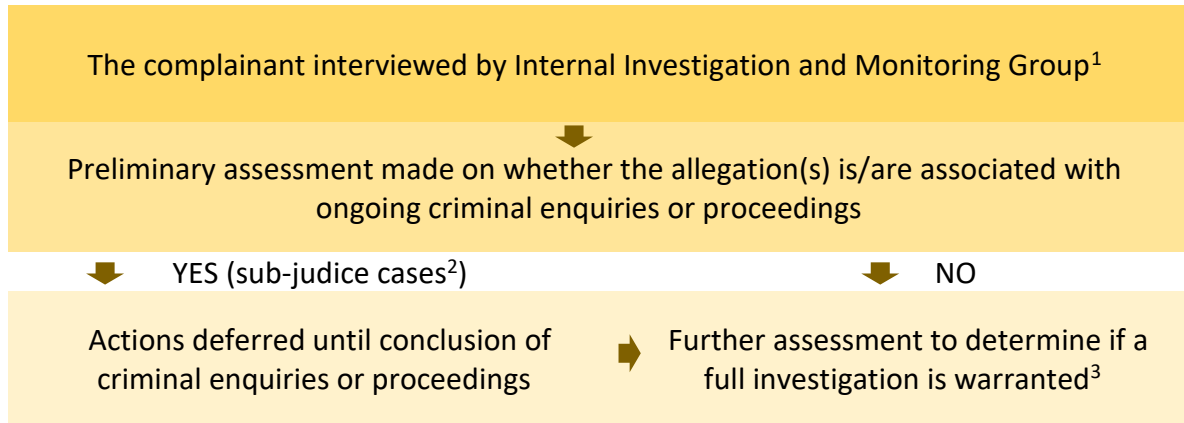
Mr Stephen YIU Kin-wah, JP

The Hon Eunice YUNG Hoi-yan, JP

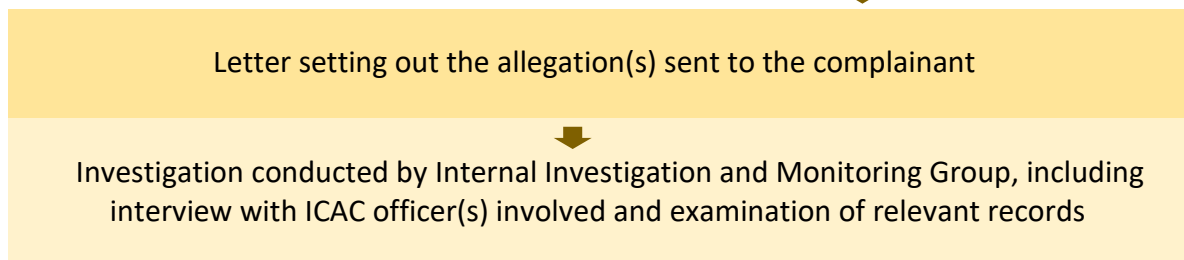
Mr CHAK Shui-hang (*Representative of The Ombudsman*)

HANDLING OF COMPLAINTS

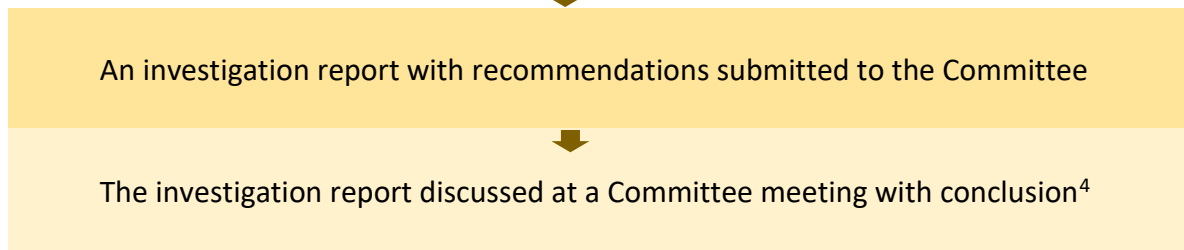
PRELIMINARY ASSESSMENT STAGE



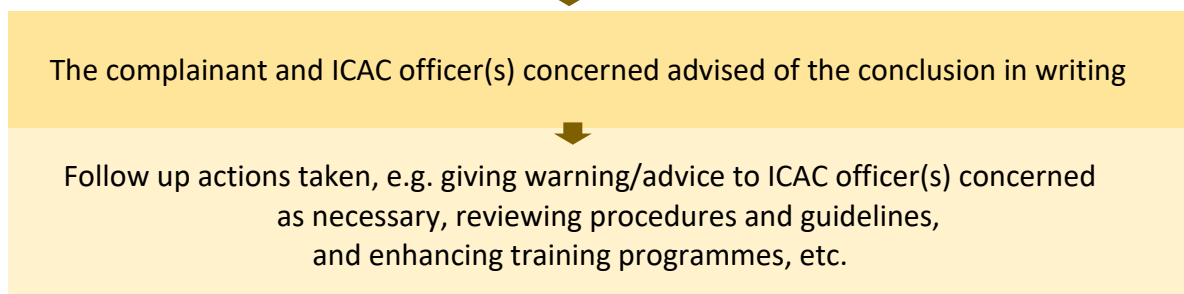
INVESTIGATION STAGE



COMMITTEE DISCUSSION STAGE



FOLLOW-UP ACTION STAGE

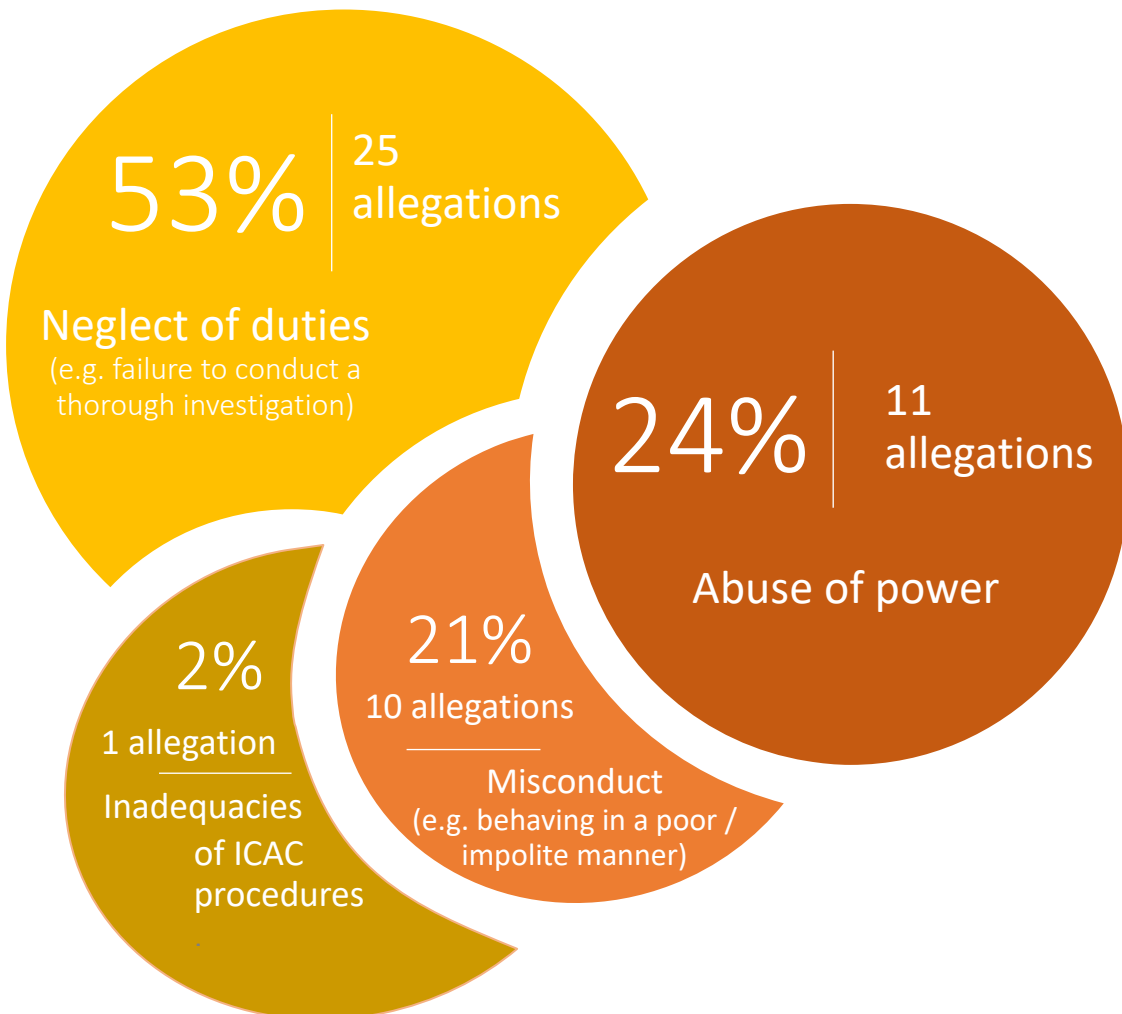


Remarks

1. The Administration Wing of the Chief Secretary for Administration's Office provides secretariat support for the Committee, including maintaining the Committee's website (<https://www.admwing.gov.hk/eng/links/icac.html>). If a person wishes to lodge a complaint against the ICAC or its officers, he/she may write to the Committee Secretary ("the Secretary"), or complain to the ICAC at any of its offices in person, by phone or in writing. The addresses of the Secretary and the ICAC offices are at Annex. When the complaint is received by the Secretary, the Committee Secretariat will acknowledge receipt and forward the complaint to the ICAC for follow-up actions. The Internal Investigation and Monitoring Group ("L Group"), under the direct command of Director of Investigation/Private Sector, in the Operations Department of the ICAC is responsible for assessing and investigating the complaint. Where warranted by circumstances, the Commissioner of the ICAC may make ad hoc arrangement to assign a particular complaint to designated officers outside L Group for assessment and investigation.
2. 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. Pursuant to legal advice, the complainant will be informed in writing that the investigation into his/her complaint will be deferred, pending the conclusion of relevant criminal enquiries or proceedings. If the 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 has yet to decide, the Commissioner of the ICAC will seek further legal advice and decide whether or not to maintain the decision 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.
3. Complaints which after preliminary assessment are considered by the ICAC as not warranting a full investigation will be processed by way of assessment reports. Such cases include complaints which are incoherent or irrational, repeated complaints previously disposed of through the Committee and complaints of which the subject matters have already been decided by the courts. In respect of each case, the ICAC will state the reason(s) for not conducting a full investigation and submit an assessment report for the Committee's consideration. In 2022, the Committee considered and endorsed two assessment reports. The complainants had been advised in writing that no further investigative actions would be taken on their complaints.
4. Members of the Committee may seek additional information and/or clarifications from the ICAC concerning the handling of the complaints and will consider the recommendations made in the investigation report before reaching the conclusions.

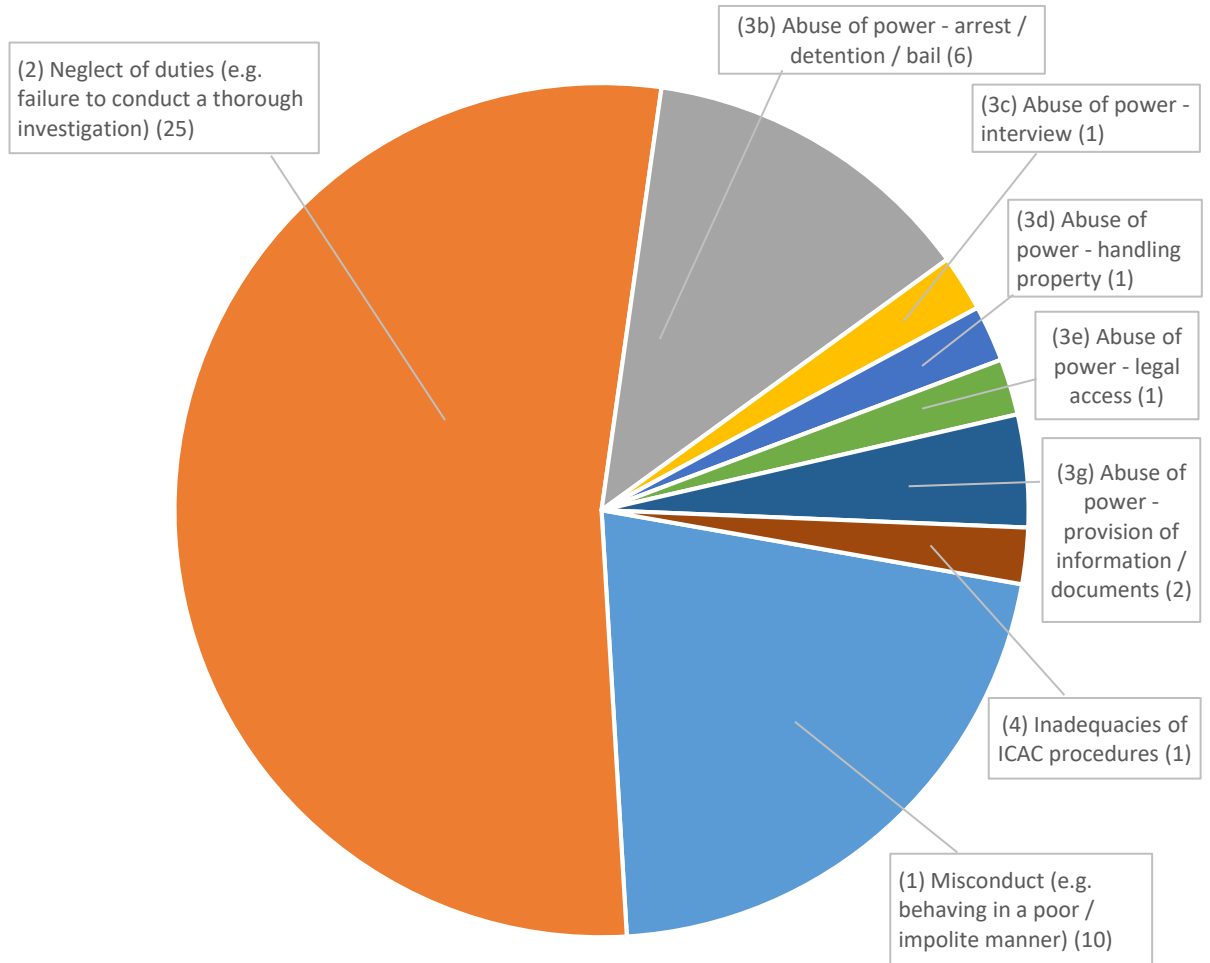
COMPLAINTS RECEIVED

In 2022, 13 complaints containing a total of 47 allegations against the ICAC or its officers were received, as compared with 12 complaints (containing a total of 26 allegations) and 13 complaints (containing a total of 26 allegations) received in 2020 and 2021 respectively. The allegations registered in 2022 were related to neglect of duties by ICAC officers (53%), abuse of power (24%), misconduct (21%) and inadequacies of ICAC procedures (2%).



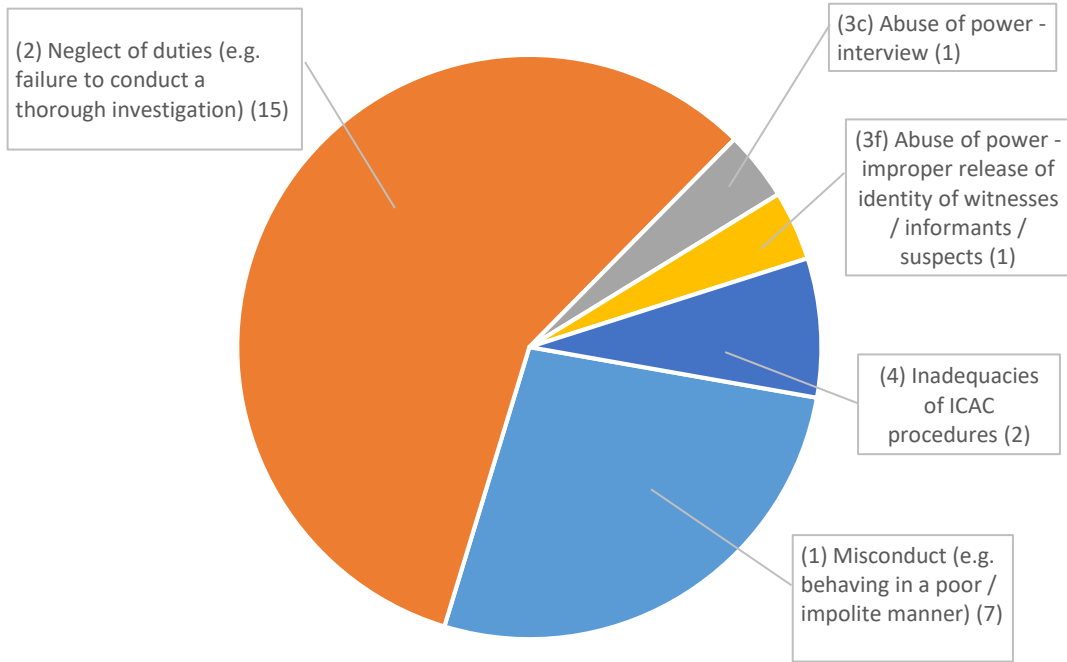
Number and category of allegations registered in 2020, 2021 and 2022

2022 (Total: 47 allegations)

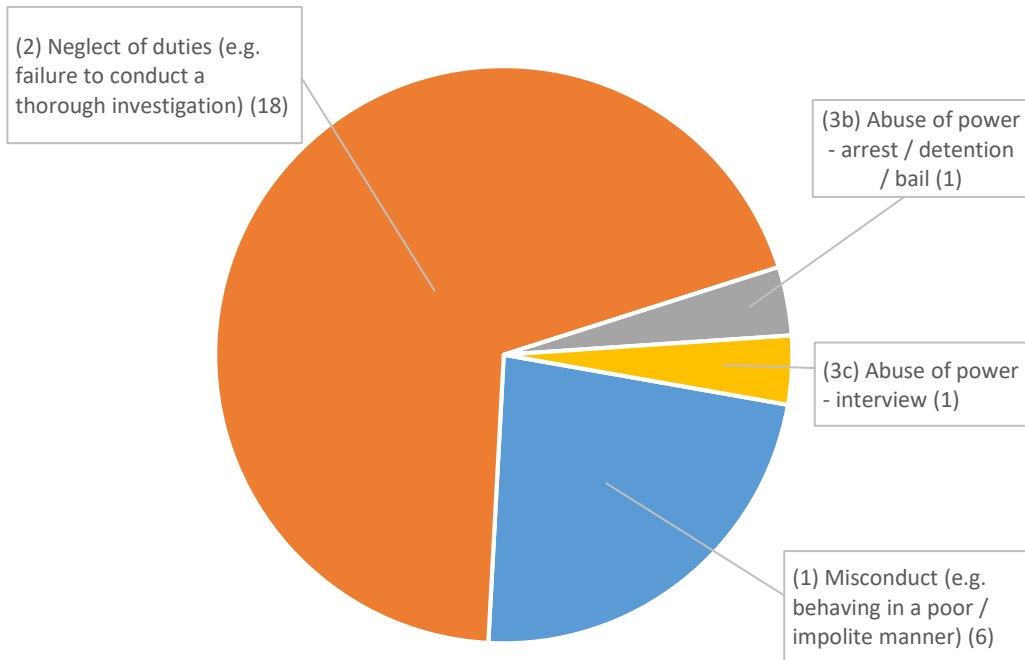


Note: The full breakdown of allegations by category is set out in the statistical table on page 10.

2020 (Total: 26 allegations)



2021 (Total: 26 allegations)



Note: The full breakdown of allegations by category is set out in the statistical table on page 10.

COMPLAINTS CONSIDERED

The Committee had scheduled three meetings in May, August and November 2022. Of the 13 complaints covering 47 allegations received in 2022, investigations into all of them were concluded with the relevant investigation reports considered by the Committee during the year. The Committee also considered three complaints received in 2021, the related investigations for which were completed in 2022, covering another 10 allegations. A summary of the allegations considered by the Committee in 2022 is shown in the table below:

<i>Category of allegation</i>		<i>Number of allegations considered</i>	<i>Number of allegations found substantiated / partially substantiated</i>
1.	<i>Misconduct</i>	12	0
2.	<i>Neglect of duties</i>	32	0
3.	<i>Abuse of power</i>		
	(a) <i>search</i>	0	0
	(b) <i>arrest / detention / bail</i>	6	0
	(c) <i>interview</i>	2	0
	(d) <i>handling property</i>	1	0
	(e) <i>legal access</i>	1	0
	(f) <i>improper release of identity of witnesses / informants / suspects</i>	0	0
	(g) <i>provision of information / documents</i>	2	0
4.	<i>Inadequacies of ICAC procedures</i>	1	0
	Total:	57	0(0%)

COMPLAINTS HIGHLIGHT

Of the 16 complaints covering 57 allegations considered by the Committee in 2022, no allegation was found to be substantiated.

The investigation reports of two of the 16 complaints are summarised below to illustrate how the complaints were handled, particularly the investigative work conducted by the ICAC and overseen by the Committee.

Case 1

Case background

The complainant, a subject person of a corruption investigation, was arrested by a Senior Investigator and an Assistant Investigator (“the Duo”) in an operation. Her residence and office were searched by the Duo pursuant to two search warrants. Subsequently, the complainant made a total of 14 allegations against the Duo. Amongst those allegations, eight of them were related to misconduct, neglect of duties and abuse of power during the arrest and search, including the alleged failures of the Duo to clearly inform the complainant of the suspected offences and to show her the respective search warrants prior to home and office searches, as well as depriving her rights to contact her family members and lawyer, and to receive medical treatment. The remaining six allegations were related to treatments during her detention at the ICAC Detention Centre (“DC”), including, inter alia, the alleged prolonged documentation process, unreasonable delay in serving her lunch, inadequate refreshment provided to her and unsuitable temperature at her detention room.

Investigation

After interviewing the Duo and examining the relevant investigation records, L Group was satisfied that the arrest and search operation was properly conducted by the Duo. It was found that the Duo had duly explained to the complainant the suspected offences and cautioned her in accordance with the established procedures, showed her the search warrants before the commencement of the searches, and suitably and promptly informed the complainant of her rights and dealt with her requests. Throughout the operation, the actions taken by the Duo were well-documented. The Duo’s version was supported by independent evidence of other ICAC officers and a

civilian witness. Regarding the six allegations relating to the unfair treatments to the complainant at the DC, the guard commander (“GC”) and guarding officers (“GO”), who are responsible for the safety and welfare of the detainees during their detention at the DC and who are not involved in any investigating process, stated that there were no requests or complaints made by the complainant during her detention, be it relating to legal representation, medical attention, refreshment or temperature setting. The documentation process was conducted within a reasonable period, and lunch was promptly served on the complainant without delay. The accounts of events given by the officers concerned were supported by relevant detention records.

Assessment

All the allegations were found unsubstantiated in the absence of any supporting evidence. It was considered that the evidence of the GC and GOs who were independent from the frontline investigating section, and the relevant operational and detention records which were all well-documented by respective ICAC officers, had rebutted the allegations. The Committee endorsed the assessment and recommendation.

Case 2

Case background

The complainant lodged a number of corruption reports over time concerning building management (“BM”) issues of a private residential building (“the Building”). One of the corruption reports was assigned to D Group for investigation. Subsequent investigation revealed no evidence of corruption or other offences, and the Operations Review Committee endorsed that no further

investigative actions be taken by the ICAC. When being informed of the investigation outcome, the complainant was, amongst other things, dissatisfied that the ICAC Directorate had assigned the corruption report to D Group which is specialized in BM cases. He reckoned that one of the allegations involved employees of two government departments and it should be investigated by another group dedicated for public sector corruption cases.

Investigation

L Group investigation revealed that the corruption report concerned a renovation project of the Building, of which two government departments were involved. Generally, cases concerning specific charter would be assigned to the responsible investigating group as their officers have been maintaining liaisons with the respective counterparts and possess more knowledge in the relevant areas. However, on some occasions, special arrangement would be made in view of the actual circumstances. Given that this corruption report consisted of multiple allegations concerning different charters, the ICAC Directorate, after careful consideration, assigned it to D Group, of which the officers also had experience in handling public sector corruption cases and adopted the established liaison channels to ensure a high standard of investigation quality.

Assessment

The allegation was found unsubstantiated. It was considered that the case assignment was carefully considered by the ICAC Directorate, taken into account of various factors, for achieving a holistic approach of investigation and effective manpower deployment. The cross-charter assignment was considered to be reasonable and did not prejudice the investigation quality. The Committee endorsed the assessment and recommendation.

ICC VISIT TO THE ICAC



To further enhance the Committee members' understanding and knowledge about the operations of the enforcement work of the ICAC, they were invited to visit the ICAC Headquarters to observe its facilities and practices.

During their visit on 12 October 2022, in the company of the ICAC Commissioner and the Head of Operations, the Committee members were guided through different facilities of the ICAC, including the Report Centre, Detention Centre, Video Interview Room and Identification Parade Complex.

ANNEX – USEFUL ADDRESSES

The address of the Secretary of the ICAC Complaints Committee -

Administration Wing of the Chief Secretary for Administration’s Office,
25/F, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong
(Tel: 3655 5503; Fax: 2524 7103; E-mail: icc@cso.gov.hk)

The address 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, Sheung Wan Tel: 2543 0000
ICAC Regional Office – Hong Kong East	Unit 3, G/F, East Town Building, 16 Fenwick Street, Wanchai Tel: 2519 6555
ICAC Regional Office – Kowloon East/Sai Kung	Shop No.9, G/F, Chevalier Commercial Centre, 8 Wang Hoi Road, Kowloon Bay 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, Tsuen Wan Tel: 2493 7733
ICAC Regional Office – New Territories North West	G/F, Fu Hing Building, 230 Castle Peak Road-Yuen Long, 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