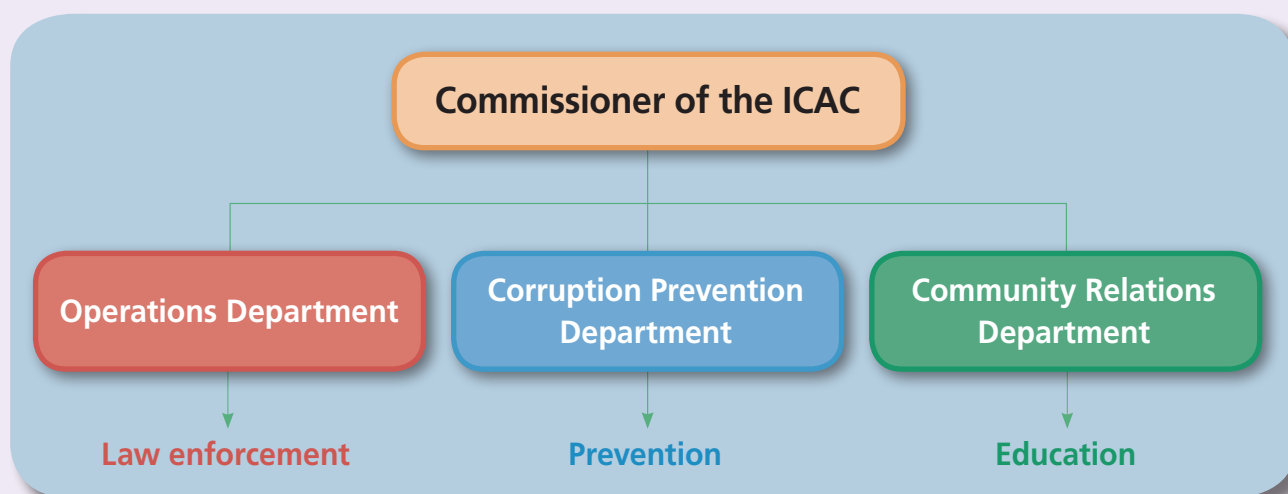


Anti-corruption and anti-bribery work in Guangdong, Hong Kong and Macao

Hong Kong: the 'three-pronged approach' in the fight against corruption

The Independent Commission Against Corruption (ICAC) was set up in Hong Kong in 1974 to fight against corruption. Pursuant to Article 57 of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, it functions independently and is accountable to the Chief Executive of Hong Kong.

The ICAC's three-pronged approach is to fight against corruption through effective law enforcement, education and prevention in order to keep Hong Kong fair and just.



Law enforcement

The ICAC is responsible for receiving, considering and investigating complaints of alleged corruption. In recent years, most of the complaints handled by the ICAC came from members of the public. The public can lodge complaints via telephone hotline, mail or in person at ICAC's 24-hour Report Centre or any ICAC Regional Offices.

The primary aim of the ICAC was originally to fight against corruption in government departments. In recent years, however, there has been an upsurge in corruption reports involving the private sector — representing more than half of the total annual corruption complaints received. These cases are varied in nature, covering a wide scope of work, and the methods used by criminals have become more sophisticated. The

ICAC Operations Department has therefore set up different task forces to deal with these different situations. Investigators may even travel abroad to collect evidence, if necessary. Any allegation of commercial bribery, if fully substantiated after investigation by the Operations Department, will be forwarded to the Secretary for Justice to decide on whether to prosecute or not.

For information on reporting corruption and making enquiries to the ICAC, please refer to Chapter 10.

Prevention

The ICAC examines the systems and procedures of government departments and public bodies in order to identify possible corruption loopholes and advise on ways to minimise opportunities for corruption.

Established in 1985, the Advisory Services Group (ASG) of the ICAC's Corruption Prevention Department has provided free and confidential advisory services to business organisations in different functional areas such as purchasing, sales and marketing, inventory and stock control, accounting and personnel administration. A brief introduction of the ASG and its contact details are provided in Chapter 10. A list of best practice modules, produced by the ASG, is also provided in Appendix 17.

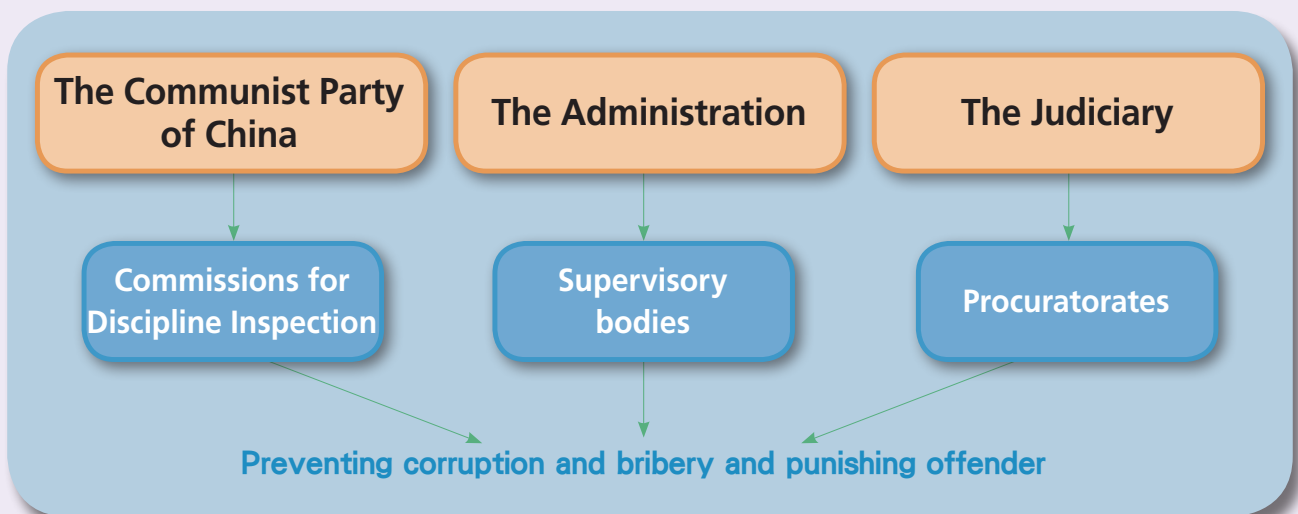
Education

Fully aware that prevention is better than cure, the Community Relations Department (CRD) of the ICAC educates the public against the dire consequences of corruption and enlists public support in combating corruption.

Commercial organisations have long been the major targets of ICAC's educational initiatives in corruption prevention. Since the number of corruption reports involving the business sector has remained high in recent years, the CRD therefore makes proactive efforts in maintaining close contacts with the business sector. The Department makes great efforts to explain anti-corruption legislations as well as the evils of corruption, and urges businesspersons to deal with corruption seriously. Apart from offering the necessary assistance in drawing up codes of conduct for staff and formulating corruption prevention measures, the CRD also provides staff training for businesses on anti-corruption laws and company codes of conduct — highlighting the importance of legal compliance when working in Hong Kong, Macao or mainland China. Businesspersons may also contact the Hong Kong Ethics Development Centre (HKEDC) which operates under the auspices of the CRD for provision of related services. An introduction to the services offered by the HKEDC is provided in Chapter 10.

People's Republic of China : joint efforts by the Communist Party, Administration and Judiciary to prevent corruption and bribery and punish offenders

In mainland China, the three organisations responsible for preventing corruption and bribery and punishing offenders are as follows:



Commissions for Discipline Inspection

The Commissions for Discipline Inspection, under the supervision of the Communist Party of China, are responsible for enforcing Party discipline. Similar commissions are also set up within the Party at the committee and organisation levels throughout mainland China. The duties and rights of these commissions include:

1. Inspecting any acts that amount to infringement of Party discipline by Party cadres, Party members and/or Party organisations; and
2. Receiving complaints, carrying out investigations and determining sanctions against Party members and Party organisations found to be infringing Party discipline.

The Commissions for Discipline Inspection only deal with cases concerning infringement of Party discipline — including corruption and bribery — by Party members, Party cadres and Party organisations. They are also responsible for handling complaints from external parties.

Supervisory bodies

The Ministry of Supervision is established under the State Council. Supervision bureau or supervision offices are also set up at each level of local governments and in State administrative institutions, enterprises and working units with the following functions:

1. Monitoring different levels of administrative functionaries, functionaries, and enterprises as well as overseeing the implementation of State policies, laws and regulations, and national economic and social development programmes carried out by leading cadres designated by State administrative bodies;
2. Investigating infringements of law and discipline to safeguard the integrity of the government; and
3. Preventing bribery, improving and strengthening administrative controls in order to enhance efficiency.

The supervisory bodies mainly impose sanctions against State functionaries who have breached regulations but have not actually committed an offence. The supervisory bodies also receive complaints from external parties.

Procuratorates

Procuratorates in mainland China are structured in the following levels:

- the Supreme People's Procuratorate;
- the People's Procuratorates at different levels; and
- other procuratorates such as the Military Procuratorate.

The People's Procuratorates are responsible for investigating corruption and bribery offences as well as deciding if a suspect should be arrested and if legal proceedings should be instituted against them. They also carry out corruption-related crime prevention activities.

Under the People's Procuratorates are departments such as anti-corruption and bribery bureaux, anti-dereliction of duty and infringement of rights bureaux, report centres and duty-related crime prevention departments. The functions of these various bodies are as follows:

Anti-corruption and bribery bureaux

1. Placing on file and investigating corruption and bribery crimes involving State functionaries; and
2. Gathering and analysing the work progress of procuratorates in their anti-corruption duties and conducting research on special topics.

Anti-dereliction of duty and infringement of rights bureaux

1. Placing on file and investigating any dereliction of duties by State functionaries and/or their abuse of authority to infringe on the human and/or democratic rights of members of the public by false imprisonment, forced confession, revenge, false incrimination, illegal search and/or use of force to extract evidence; and

2. Gathering and analysing the work progress of procuratorates in curbing dereliction of duty and infringement of rights and conducting research on special topics.

Report centres

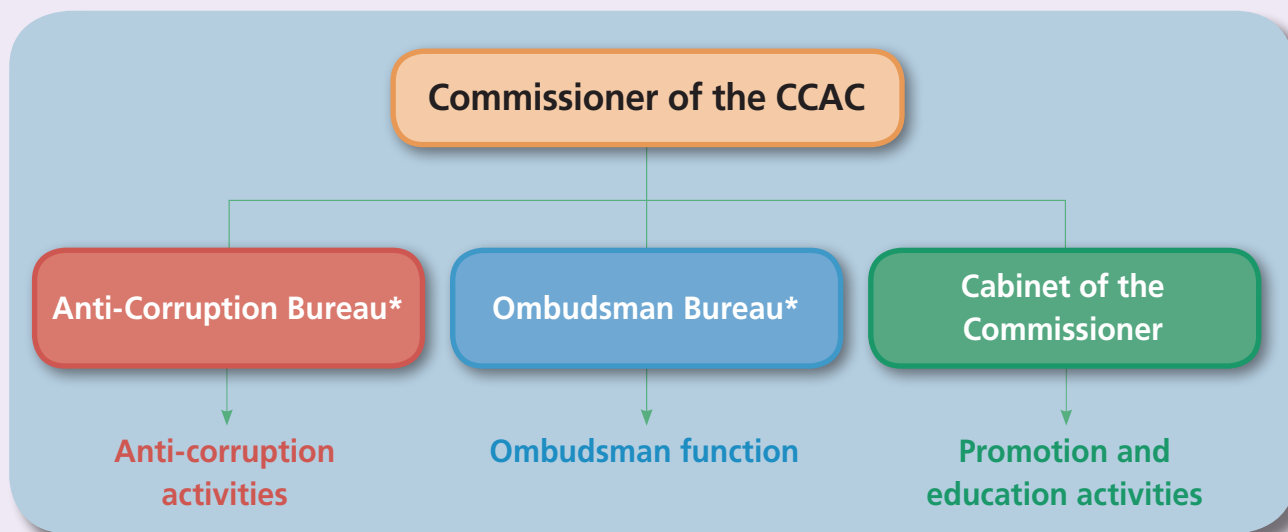
1. Receiving and handling allegations from the public or units against State functionaries regarding corruption, bribery, dereliction of duty and/or infringement of rights. They are also responsible for assisting with 'Chief Procurator Open Day' visits and working on shift to staff the 'Chief Procurator Hotline';
2. Conducting preliminary investigations on certain allegations;
3. Launching report-crime promotions; and
4. Receiving visitors.

Duty-related crime prevention departments

1. Providing consultation services on duty-related crime prevention as well as publicity and education work to enhance awareness against bribery;
2. Detecting and handling signs of duty-related crimes in the course of carrying out crime prevention duties;
3. Handling enquiries about bribery offences;
4. Conducting research on causes of common duty-related crimes, and providing suggestions on preventive measures for units involved in these crimes; and
5. Analysing the characteristics and patterns of duty-related crimes, issuing research reports on prevention of such crimes and proposing relevant preventive measures.

Macao: the dual approach to build integrity of Commission Against Corruption (CCAC)

The Macao Special Administrative Region (SAR) was established on 20 December 1999 and on the same day it authorised the establishment of the CCAC in accordance with Article 59 of the Basic Law. The CCAC functions independently and its Commissioner is accountable to the Chief Executive of the Macao SAR. Driven by the goal of exerting 'supervision on integrity', 'supervision on law-enforcement' and 'supervision on effectiveness', the CCAC is dedicated to fighting corruption and carrying out an ombudsman function — adopting the paradigm of law-abidingness and impartiality to enhance the integrity building in the Macao SAR whilst upholding social justice through a dual approach of anti-corruption and prevention.



* The Commissioner is assisted by two Deputy Commissioners who are designated as directors of the respective bureaux.

Headed by the Commissioner, the CCAC of Macao comprises three functional bureaux: the Anti-Corruption Bureau, Ombudsman Bureau and Cabinet of the Commissioner responsible for combating corruption; handling complaints on public administration, i.e. supervision of the administration; and promotion of preventive education, respectively.

Anti-corruption

The Anti-Corruption Bureau is responsible for combating corruption, conducting investigations into crimes of corruption and corruption-related fraud. It is also responsible for the clampdown on bribery in elections — in curbing acts of corruption and fraud related to elections and voter registration held for relevant bodies in the Macao SAR. Cases of government officials' declaration of assets and interests are also received and managed by the CCAC.

Cases, upon completion of investigation by the CCAC, will be referred to the Public Prosecutions Office of Macao to decide on whether to prosecute or not.

For ways to lodge corruption complaints with and make enquiries to the CCAC, please refer to Chapter 10.

Ombudsman

The Ombudsman Bureau is responsible for the following functions:

- monitoring the legality and rationality of administrative behaviour and procedures of public departments;
- receiving public complaints against administrative irregularities and mismanagement;
- examining and recommending the adoption of measures to simplify the administrative procedures and improve the operation of public services; and
- studying and analysing initiatives to prevent and curb administrative illegalities, corruption and frauds committed by public servants for the purpose of safeguarding the legal interests of citizens.

Preventive education

The Community Relations Department, established under the Cabinet of the Commissioner, is responsible for:

- launching anti-corruption publicity and educational work to the community;
- reinforcing the connection between the CCAC and the society; and
- instilling in members of the public the importance of integrity and mobilising all sectors of the community to support and participate in integrity building.

Joint efforts across the Pearl River Delta to combat corruption and bribery

The ICAC has been maintaining close cooperation with the CCAC of Macao and various anti-corruption agencies in mainland China — especially the Supreme People's Procuratorate, the Guangdong Provincial People's Procuratorate (GDPP) and the Ministry of Supervision, to fight against corruption through law enforcement and preventive education.

On the operational front, the GDPP and the ICAC's Operations Department instituted a Mutual Case Assistance Scheme in 1988 under which mutual assistance was offered in interviewing witnesses and taking statements. With the increase in exchange visits among the anti-corruption agencies in recent years, since 2005 a Mutual Case Assistance Workshop has been held for law enforcers of the three places to discuss progress of the Scheme. This annual workshop provides a focus for the enhanced anti-graft cooperation among the three locations.

Officers engaged in the preventive education work from the three locations have been maintaining close liaison to exchange views and experiences through mutual visits and training seminars. The Hong Kong Mainland Liaison Office of the ICAC also acts as an intermediary to arrange exchange study tours and conduct training courses for officers of its counterparts in mainland China and Macao to enhance their understanding of each others' work.

The Ministry of Supervision, ICAC and CCAC have been organising conferences at all three locations in rotation, since 2008, to exchange experiences and strategies on combating and preventing corruption.

In 2011, the 'Integrity and Professionalism — Key to Business Success' Conference, held for SMEs in Guangdong, Hong Kong and Macao, was jointly organised by the GDPP, ICAC and CCAC. The event helped cross-boundary SMEs better understand the business environment in the region as well as the latest developments of anti-corruption policies in the three locations. Key topics concerning cross-boundary business in the three locations, which conference participants raised concerns over, are detailed in Chapter 11 to provide timely, effective and practical information on corruption prevention measures.