

# 2005

**Annual Report of the Commission Against Corruption of Macao**



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Chief Executive Edmund Ho with the top officials of the CCAC(December 2005)

# **CHAPTER 1**

## **INTRODUCTION**



## CHAPTER I – INTRODUCTION

The year 2005 was a challenging one for the Commission Against Corruption of Macao (CCAC) whose main tasks were to ensure the cleanness and fairness of the 3<sup>rd</sup> Legislative Assembly Election of the Macao Special Administrative Region (Macao SAR), enhance the management of public administration in terms of honesty and incorruptibility, promote awareness of administrative complaints, and further carry out moral education for teenagers.

In 2005, the CCAC recorded a total of 1,109 complaints, a decrease of 9.6% over 1,227 cases recorded in the previous year, which might be related to the promulgation of the Guidelines on the Professional Ethics and Conduct of Public Servants and other integrity regulations of competent government departments, especially in the area of ombudsman. Out of these 1,109 cases, however, there were only 395 cases meeting the criteria for follow-up, together with a backlog of the previous year and reopened cases totalling 580 cases. Among those complaints, there were 142 cases commenced for investigation, including 70 cases registered in 2005, 71 cases transferred from the previous year, one case reopened in the same year and 438 non-commenced cases handled either by transference or preliminary procedure. After a year's effort, 395 non-commenced cases and 85 commenced cases have been concluded, of which 21 cases were referred to the Public Prosecutions Office. As there were only 111 cases left for 2006 (including 57 registered cases), accumulated cases have further declined.

In 2005, there were 889 cases involving criminal offences (82 cases concerning electoral corruption) accounting for 80.2% of the total recorded complaints that were still dominated by cases of corruption, abuse of power and fraud of public servants.

During the criminal investigations, the CCAC paid close attention to the possible corruption derived from the economic development, especially in relation to gaming activities and the operation of credit institutions. While strengthening preventive measures, the CCAC also exposed several cases involving public servants' bribery, abuse of power, forgeries and fraud, including a serious fraud of several hundred million patacas committed by an employee of a credit institution. In the meantime, it was a great challenge for the CCAC in 2005 to monitor the 3<sup>rd</sup> Legislative Assembly Election. Given the circumstances where the competition was severe and updated laws were lacking, cases of irregularity and the number of risk-takers were on the rise compared with the previous elections, despite the intensified publicity of fighting against electoral corruption and efficient preventive measures which had been formulated.

As fighting against electoral corruption entered into a crucial stage in 2005, the CCAC set up routine channels as well as a hotline for the public. By the end of the year, the CCAC received 423 complaints in total; most of them were similar and mutually related. By the end of 2005, after careful analyses and preliminary examination, 12 cases were commenced for investigation, 6 cases involving over 700 suspects were scrutinized and transferred to the Public Prosecutions Office, including candidates who were leaders of civic associations and managers of enterprises. Besides, some cases require further investigation in 2006.

Concerning the 3<sup>rd</sup> Legislative Assembly Election, given the obvious increase of complaints, commencement for investigation and suspects compared with the last election, it shows a general rise in the awareness of integrity, but there is still room for improvement and correction in both legal and moral aspects. It is also necessary to point out that the huge increase of complaints about this legislative assembly election did not indicate a general occurrence of corruption during the election, since most of the complaints merely involved bribes of certain candidates in a particular group and the cases were mutually related; in fact, there were only a small number of immoral individuals willing to breach the law which might also need to be perfected. On the contrary, the large number of complaints is in fact the reflection of the public renouncement of electoral corruption.

According to a survey conducted in September prior to the election, interviewees considering it would be clean, normal or corrupt were 24%, 58% and 18% respectively. After the election, the CCAC promptly reviewed and systematically analyzed the supervision of the previous elections, and will propose suggestions for law-amendment so as to further complement relevant laws and regulations.

Considering corrupt crimes are not confined to national borders, the CCAC has established a partnership cooperation mechanism with law enforcement agencies of various regions in recent years. In 2005, the CCAC assisted other regions' law enforcement agencies in investigating 25 cases, and 15 cases are yet to be followed up. Meanwhile, some cases of the CCAC also required cooperation of other regions' law enforcement agencies; in both ways, the results have been satisfactory. Additionally, in strengthening the anti-corruption force, the CCAC recruited new investigators in October 2005. With 1,067 people enrolled for examination, 8 distinguished candidates were chosen for the training course after going through the five stages of qualification assessment, written examination, physical fitness test,

home visit and interview. They are expected to join the workforce in 2006, which will relieve the shorthanded pressure.

Concerning the area of ombudsman, in 2005, there were 220 recorded cases mainly in relation to legal systems governing public services, municipal affairs and illegal constructions. Considering the cases being transferred from the previous year and the duplications, there were 272 cases of ombudsman in total to be handled, of which 238 cases have been concluded. Among concluded cases, 172 cases were disqualified as administrative illegality or administrative malpractice, accounting for 70%. The CCAC issued recommendations to two cases and provided suggestions for the amendment for the Road Code and Road Regulations. In addition, as the system was established and disciplinary approaches put in place, requirements for consultancy the CCAC received declined to 608 cases from 645 cases in the previous year, dominated by enquiries about “the legal system governing public services”, “Guidelines on the Professional Ethics and Conduct of Public Servants”, with 16% of cases outside the competence of the CCAC, and an obvious decline on issues of public procurement.

Based on the problems revealed from the recorded complaints and operational investigation, the CCAC has completed the reviews on “The Issues on the Prosecution Procedure and Sanction Procedure against Administrative Offences” and “The system of Serving Exclusively the Public Interest and Not Engaging in Incompatible Activities for Public Servants.” Meanwhile it provided suggestions to the amendment for the General Regime of the Administrative Infringement and its Procedure, General Regulations Governing the Staff of the Public Administration of Macao and the General Regulations Governing the Directors and Chiefs. In addition, the CCAC has launched two appraisal schemes on the accessorial units of the Transportation Department of Vehicles and Transportation of the Civil and Municipal Affairs Bureau. In cooperation with the Health Bureau and Macao Trade and Investment Promotion Institute, the CCAC will continuously follow up the improvement measures carried out by these two institutions.

By the end of 2004, the CCAC promulgated the Guidelines on the Professional Ethics and Conduct of Public Servants and Recommendations on the Formulation of Code of Conduct for Public Services and Institutions, aiming at promoting honesty and integrity of public servants. Consequently, concerning the issue the CCAC organized a series of promotions and 122 seminars with 18,410 public servants participating in 2005. In the meantime, the CCAC also

provided technical assistance to formulating internal guidelines for honesty and integrity while establishing a long-term connecting mechanism with the competent governmental authorities through appointed liaisons. By December 2005, 36 of 55 public services and institutions had formulated internal guidelines on honesty and integrity with the rest being in the process.

In 2005, according to the social development, the CCAC continuously carried out systematic and specific educational promotions in which 371 seminars were held for public servants, students and staff members in supervised institutions and associations with 33,823 person-times, a record year for participants. In the meantime, the CCAC fully utilized the routine publicity channels to promote citizenship and integrity for the public, such as the “Clean Administration Forum” in the newspaper and the publication of the CCAC Bulletin, making television and radio programmes and posters, organizing variety shows and endorsing honesty into the Legislative Assembly Election and so on. During the period of election, the CCAC issued the Guidelines for Clean Election for Voters and Guidelines for Clean Election for Candidates, and held symposiums to explain the meanings of “clean election” for candidates, as well as invited some people as “Clean Election Ambassadors”. Four hundred people were recruited as “Clean Election Volunteers” to assist the relevant promotions, carrying the message all the way to the grass roots of the community.

In 2003, the CCAC compiled the primary school textbook “Honesty and Integrity”, which was adopted by nearly 90% of all primary schools in Macao. In August 2005, the second edition of the textbook was published together with interactive teaching components including audio-visual materials, role-play costumes and self-mailer. More than 40 primary schools adopted the textbook by the end of 2005.

In 2005, in order to expand the social network and achieve better educational results, administrative staff in the branch office of the CCAC continued visiting associations, implementing “New Generation of Integrity; an Education Programme on Honesty for Primary Students” and receiving complaints and enquiries from the public. In total, 41 complaints and 364 enquiries from the citizens were received during the year. An international organization, “Transparency International” visited the branch office, and praised the CCAC’s educational programme for youth, which was also introduced in Teaching Integrity to Youth, a special edition of the moral education publication compiled by Transparency International.




A survey conducted by an academic institution revealed that in 2005 it was the first time that over 90% of the interviewees indicated they would lodge their complaints if corruption were discovered, and 85% were positive about the prospect of Macao becoming a “clean city”. The recent decline of the received complaints and cases commenced is a preliminary sign of Macao’s progress moving towards honesty and integrity. However, the CCAC is fully aware of the possibility that the nature and ways of committing corruption may also be evolving. Besides, the problems relating to the legal system and citizenship exposed during the Legislative Assembly Election, and some new opportunities for corruption correlating with the economic development are all requiring public attention.

In March 2006, an independent international evaluation organization “Political and Economic Evaluation” published the Asia Corruption Trend Investigation Report, in which Macao SAR was taken as a subject for the first time, reflecting the attention it received from the international community. As a result, Macao SAR gained 4.78 points, ranking 4th out of 13 countries/regions, after Singapore, Japan and Hong Kong. Macao being on the top list in Asia is a result of collective efforts of the general public, business circle, media, government, public servants and the CCAC, which has also been recognized internationally. While the CCAC is encouraged by the result, we will not be self-content; rather, we will take precautionary measures to meet the future challenges, as well as to expect the continuing support and cooperation of the public.

Looking towards the coming year, the CCAC will continuously implement the policy of “anti-corruption, prevention, enactment of normative acts and education”, spare no effort, pay close attention to the social development, improve working capacities, strengthen anti-corruption forces, always take initiatives, uphold social justice, and join hands with the people of Macao so as to fearlessly build a corruption-free society.



The background of the slide features a soft-focus photograph of a hand holding a pen, poised to write on a notepad. The scene is set against a warm, golden-yellow light, possibly from a lamp, creating a professional and focused atmosphere. The text is overlaid on this background.

## **CHAPTER II**

# **CONSTITUTION AND ORGANIZATION STRUCTURE**

## CHAPTER II – CONSTITUTION AND ORGANIZATION STRUCTURE

### 2.1 Constitution

Following the founding on 20 December 1999 of the Macao Special Administrative Region (Macao SAR), and in accordance with Article 59 of the Basic Law of the Macao SAR, the CCAC was established, functioning independently with the Commissioner being accountable to the Chief Executive.

The Commissioner of the CCAC is nominated by the Chief Executive and appointed by the Central People's Government of the People's Republic of China (PRC).

The CCAC is not a constituent part of the administrative system. It is an independent public institution responsible for the prevention of and crackdown on corruption and for the handling of administrative complaints in accordance with the law.

### 2.2 Functions and Organization Structure

In August 2000, the Legislative Assembly of the Macao SAR approved the Organizational Law of the CCAC (Law no. 10/2000), vesting the CCAC with more powers, including detention, searches, seizures and use of weapons. Investigators are also granted the status of criminal investigation police, reflecting the determination of the Macao SAR government to stamp out corruption and exercise clean administration.

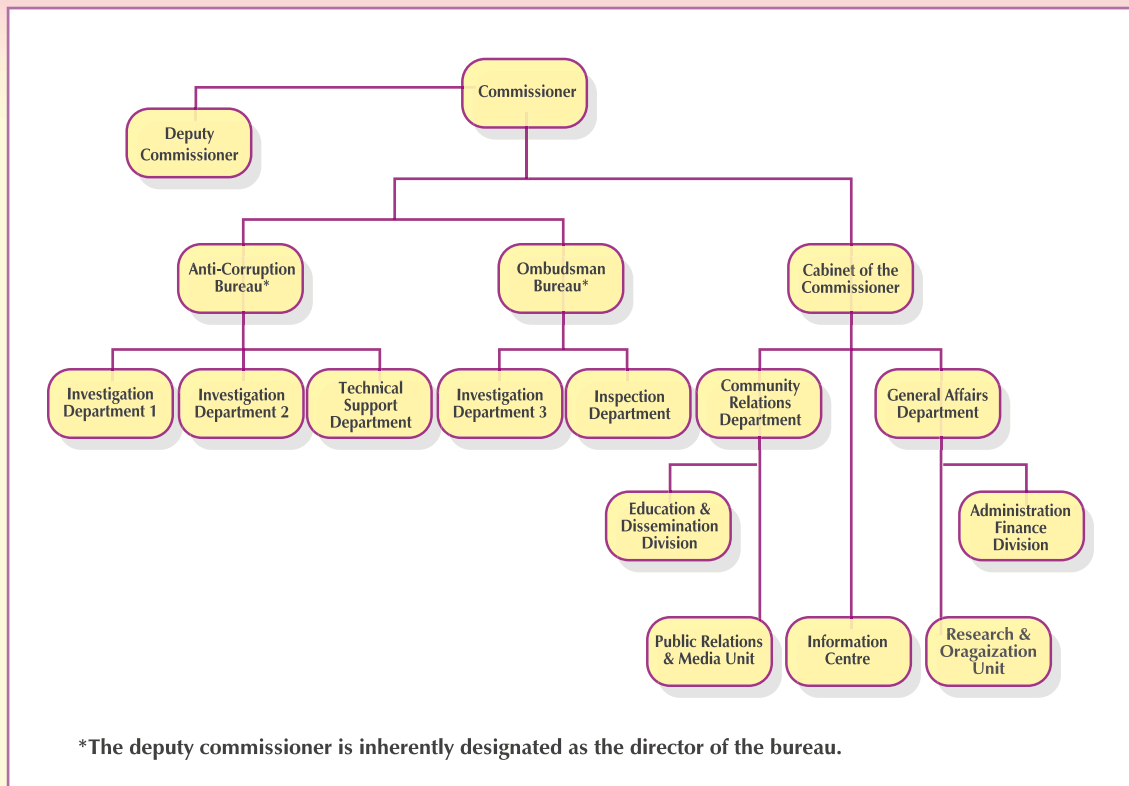
According to the Organizational Law, the main functions of the CCAC are:

- Taking action to prevent acts of corruption or fraud;
- Carrying out investigations and enquiries into acts of corruption and fraud committed by public servants;
- Carrying out investigations and enquiries into acts of corruption and fraud relating to electoral registration and elections;

-Protecting the rights, freedom and legitimate interests of individuals and safeguarding the justice, legality and efficiency of public administration.

The Administrative Regulation of the CCAC, i.e., "The Organization and Operation of the CCAC" (no.31/2000) promulgated on 21 August 2000 provides the CCAC with an improved organization structure and increased manpower. The CCAC consists of the Cabinet of the Commissioner, the Anti-Corruption Bureau, and the Ombudsman Bureau, with functional, administrative and financial autonomy. The two investigation departments of the Anti-Corruption Bureau are responsible for the investigation of acts of corruption and fraud within the powers of the CCAC while the Technical Support Department provides support for combating corruption and accepts complaints and reports of corruption. The Ombudsman Bureau, consisting of Investigation Department III and the Inspection Department, is responsible for taking complaints, rectifying illegal or unfair administrative acts and conducting studies on the improvement of administrative processes and operations of public departments. The Cabinet of the Commissioner consists of the General Affairs Department, Community Relations Department and the Information Centre. These are respectively responsible for the management of finance and personnel, promotion and education, and for the use of information and communication facilities to improve the overall operations of the CCAC.

The Organization Structure of the CCAC



# **CHAPTER III**

## **GENERAL DESCRIPTION WITH STATISTICS**

## CHAPTER III GENERAL DESCRIPTION WITH STATISTICS

### 3.1 Number of Complaints Recorded

There were 1,109 cases recorded in 2005, a decrease of 9.6% over the previous year. The majority of complaints were criminal in nature, which were around the same number as the previous year, reaching 889 cases. In the area of ombudsman, it has witnessed a sharp decrease after a big jump in 2004, receiving 220 cases, or a 29.2% decline. This was largely due to the promotion of the Guidelines on the Professional Ethics and Conduct of Public Servants and Recommendations on the Formulation of Code of Conduct for Public Services and Institutions, resulting in a better understanding of public servants' disciplines. In addition, some of the cases might have been solved through consultations beforehand.

Table 1  
Number of complaints recorded in 2005, by source of origin

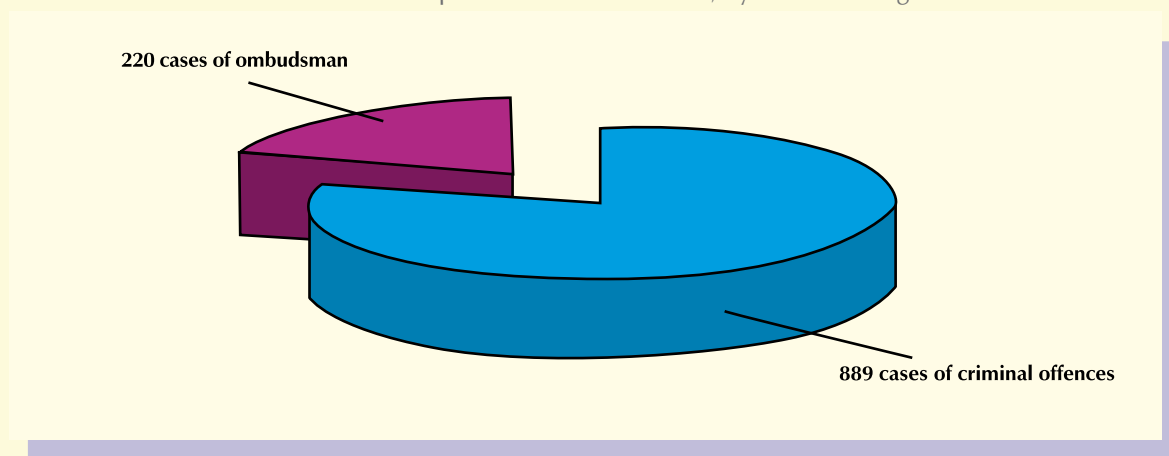
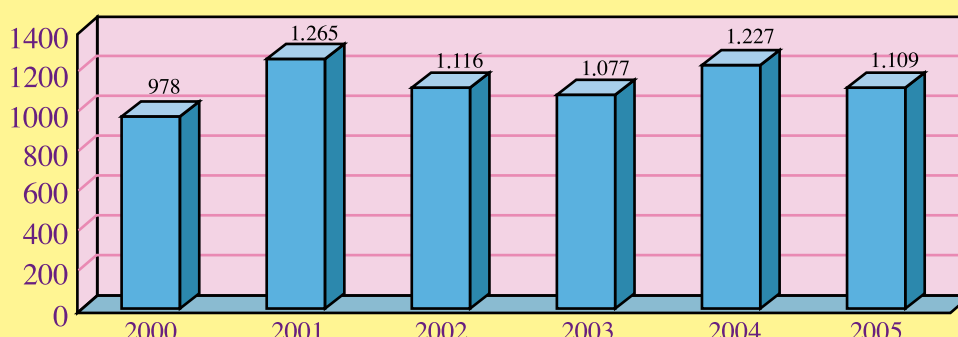




Table 2  
General trend of complaints recorded from 2000 to 2005



In terms of the source of complaints in 2005, most of the cases (94.9%) were reported by residents. Among the complainants, more than half of them (58.6%) were anonymous or requested to be anonymous, which reflected the fact that people tend to be more anxious about lodging complaints within a tiny place where interpersonal relations are tightly interrelated. In 2005, 11 cases were initiated by the CCAC and 45 cases were transferred or reported by public entities.

Table 3  
Comparison of the number of cases recorded over the past six years, by source of origin

Origin		2000		2001		2002		2003		2004		2005	
Reported by citizens	Anonymous or requesting anonymity	542	55.4%	813	64.3%	708	63.4%	663	61.6%	661	53.9%	650	58.6%
	Signed or willing to provide personal data	392	40.1%	401	31.7%	370	33.2%	363	33.7%	498	40.6%	403	36.3%
Referred/reported/requested by public entities		39	4.0%	32	2.5%	28	2.5%	41	3.8%	44	3.6%	45	4.1%
Referred/reported by media		2	0.2%	6	0.5%	2	0.2%	2	0.2%	3	0.2%	0	0%
Initiated by the CCAC		3	0.3%	13	1.0%	8	0.7%	8	0.7%	21	1.7%	11	1.0%
Total		978		1,265		1,116		1,077		1,227		1,109	

Telephone calls, mail and presenting cases in person were still major means for residents to lodge their complaints in 2005. Complaints by telephone comprised 377 cases, accounting for 34.0%, being the most commonly used method. This has certainly to do with a round-the-clock reporting hotline provided by the CCAC, and instant response or suggestions the complainant may get in this way.

Recently, the number of complaints being lodged in person is still relatively low, accounting for 20.7% in 2005. As there are obvious increases in lodging complaints through emails, the CCAC will make the best use of the electronic network in order to improve its efficiency.

Table 4  
Different components of the cases recorded in 2005, by source of reporting methods

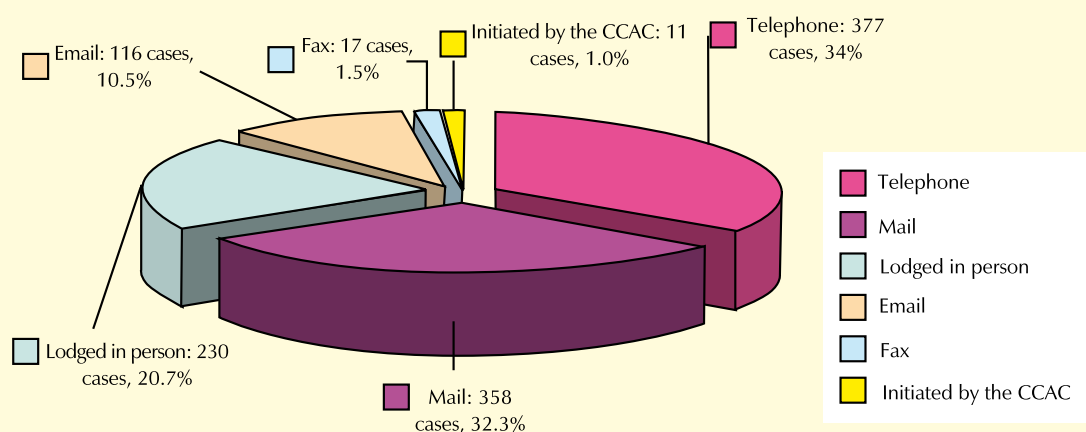


Table 5  
Comparison of the number of cases recorded from 2003 to 2005, by source of reporting methods

Reporting methods	2003		2004		2005	
	Number	Percentage	Number	Percentage	Number	Percentage
By phone	394	36.6%	414	33.7%	377	34.0%
By mail	383	35.6%	395	32.2%	358	32.3%
In person	195	18.1%	288	23.5%	230	20.7%
By email	84	7.8%	84	6.9%	116	10.5%
By fax	13	1.2%	25	2.0%	17	1.5%
Initiated by the CCAC	8	0.7%	21	1.7%	11	1.0%
<b>Total</b>	<b>1,077</b>	<b>100.0%</b>	<b>1,227</b>	<b>100.0%</b>	<b>1,109</b>	<b>100.0%</b>

### 3.2 Handling Methods of Complaints

After receiving complaints, the CCAC would carefully analyze, examine and preliminarily scrutinize the contents, then follow up accordingly. In 2005, among the 1,109 cases the CCAC recorded, there were 714 cases which were impossible to follow up due to their non-corruptive nature, or the competence being outside the CCAC or lacking sufficient evidence. The other 395 cases have been handled through registration, transference or other unofficial channels, of which 70 cases have been commenced, 39 transferred, 286 dealt with unofficially. Together with a backlog of 2004 and reopened cases of 2005, there were 580 cases being handled, including 142 commenced cases and 438 non-commenced cases.

Table 6  
Handling methods of the complaints recorded in 2005

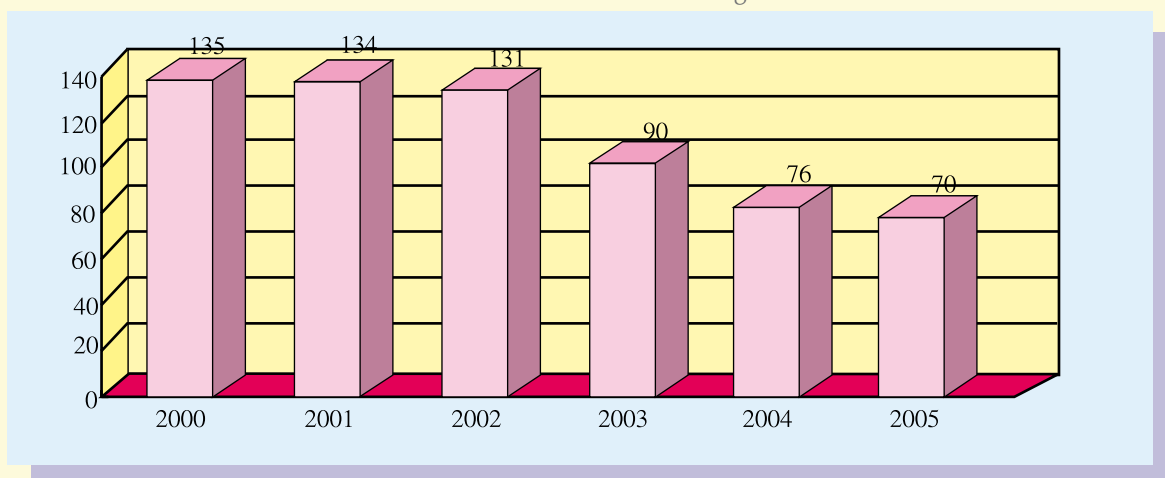
Handling methods		Number	Percentage
Qualified to be handled	Cases commenced	70	6.3%
	Referred to other departments	39	3.5%
	Unofficial channels	286	25.8%
Unqualified cases requiring no further investigations		714	64.4%
Total		1,109	100.0%

Table 7  
The total cases handled in 2005

Classification of handled cases		Number	
Commenced cases for investigation	Commenced in 2005	70	142
	Reopened in 2005	1	
	Transferred from 2004	71	
Non-commenced cases for investigation	Recorded in 2005	325	438
	Transferred from 2004	113	
Total		580	

There were 70 cases (basically criminal offences) commenced for investigation with the CCAC in 2005 and the figure has been continuously on the decline. Concerning ombudsman, cases were mainly related to explanation of laws or procedures, which have been dealt with in a fair and balanced way to satisfy the complainants. Considering their non-criminal nature, the CCAC has recently adopted more flexible measures to process these cases, by either unofficial intervention or transference. They were usually solved promptly and efficiently, resulting in rare cases being commenced for investigation in the area of ombudsman. For cases in which it is difficult to solve the fundamental problems by official intervention, the CCAC might also adopt measures of “research and examinations of operations and systems” to reduce repeated public general complaints about some common questions. Cases of significant nature will surely be commenced for investigation.

Table 8  
General trend of cases commenced for investigation in 2000-2005



Judging by the sources of complaints, the great majority of complaints in 2005 were lodged by citizens who generally remained anonymous or requested anonymity. However, statistically speaking, it is more likely for complaints which are signed or in which complainants are willing to provide personal data to be commenced for investigation and easily followed up by the CCAC. Cases transferred or reported from public entities are less likely to be commenced for investigation since such cases are largely interrelated with cases which need to be investigated in cooperation with other departments.

Table 9  
Comparison of the number of cases commenced for investigation  
from 2000 to 2005, by source of origin

Sources of complaints recorded		2000	2001	2002	2003	2004	2005
Reported by citizens	Anonymous or requesting anonymity	47	70	65	40	41	40
	Signed or willing to provide personal data	55	32	46	26	20	24
Referred/reported/requested by public entities		30	20	17	24	2	2
Referred/reported by media		0	0	1	0	0	0
Initiated by the CCAC		3	12	2	0	13	4
Total		135	134	131	90	76	70

### 3.3 Progress Analysis of Cases

In 2005, the CCAC concluded a total of 469 cases, including 384 non-commenced for investigation and 85 commenced for investigation, of which 21 cases have been transferred to the Public Prosecutions Office. One hundred and eleven cases were left for 2006, of which 57 and 54 were commenced and non-commenced for investigation respectively.

Table 10  
Progress analysis of cases in 2005

Classification	Cases handled in 2005	Cases concluded in 2005	Cases left for 2006
Cases commenced for investigation	142	85	57
Cases non-commenced for investigation	438	384	54
Total	580	469	111



## **CHAPTER IV**

# **ANTI-CORRUPTION**

## CHAPTER IV - ANTI-CORRUPTION

The focus of anti-corruption work in 2005 was to ensure the integrity of the 3<sup>rd</sup> Legislative Assembly Election and the sustained fighting against corruption. As early as in mid-2004, the CCAC had started to actively prepare the campaigns. Based on the information collected over a long period of time and the investigations, the CCAC successfully cracked 6 cases of electoral corruption involving over 700 suspects, including electoral candidates, association leaders and managers of private enterprises. Some of the cases have been scheduled to be on trial in 2006. In 2005, the CCAC also received over 800 complaints of other criminal offences (the number was similar to that in the previous year), mainly concerning corruption of public servants, abuse of power and fraud. In the meantime, the CCAC kept close watch on the possible corrupt behaviour derived from the economic development, especially in relation to gaming activities and operation of credit institutions. Consequently, several cases related to public servants were detected throughout the year, involving bribery, abuse of power and forgery and fraud. Besides, the CCAC continued its training programmes and recruitments for investigators to improve the investigators' competence and fortify the investigating force.

### 4.1 Number of Cases Recorded and Commenced

In 2005, there were 1,109 complaints recorded by the CCAC through routine channels, including 889 criminal offences and 82 cases of election fraud. Apart from the electoral corruption, the number of criminal cases recorded was roughly the same as in the previous year, indicating no sign of deterioration. Again, the complaints were still dominated by corruption of public servants, abuse of power and fraud.

In addition to the routine channels, the CCAC also recorded 341 cases through the anti-electoral-corruption hotline 6616610. A total of 423 complaints of electoral corruption were received in 2005, of which 12 cases were commenced for investigation. Compared with the 2<sup>nd</sup> Legislative Assembly Election held in 2001, there were 40 cases of breaching electoral regulations recorded by the CCAC while 8 commenced for investigation. Statistically, while complaints of the election in 2005 might have had a sharp increase compared with the figures



in 2001, most of these 423 cases nevertheless complained about the electoral corruption of some candidates in groups, which were roughly the same or interrelated. The fact clearly demonstrated that there were a minority of candidates who still disregarded laws and regulations and ruthlessly destroyed the integrity of the election, impairing public confidence for the political system.

After the preliminary screening process, there were 175 cases being followed up out of all kinds of criminal cases, of which 69 cases commenced for investigation including 12 cases of electoral corruption. The number of cases commenced for investigation had declined by 8% compared with 75 cases recorded in the previous year, which was the sixth consecutive year on the decline. In total, there were 134 cases of criminal offences to be handled in 2005 including the backlog from 2004 and reopened cases.

Compared with the complaints recorded, the number of cases that could be traced was still relatively low, which might be attributed to several reasons, such as irrelevancy to corruption or fraud, referral to other government departments as they were out of the competence of the CCAC (i.e. some corrupt behaviour in the private sector) and lack of sufficient information (most of these were complaints by mail).

In order to improve the efficiency of handling cases, the CCAC established a preliminary screening mechanism in 2003. In 2005, 41 cases had undergone the procedure and 5 of them passed the procedure and were commenced for investigation. It has proven that the preliminary screening mechanism has facilitated the process of identifying corrupt activities in the complaints, saving the CCAC's resources for other pursuable cases.

## 4.2 Cases filed and Referred to the Public Prosecutions Office

Of the 78 criminal offences concluded in 2005, 21 cases were referred to the Public Prosecutions Office, 55 case investigations were completed, one case was re-filed after reopening, and one case was merged with another one. Cases referred to the Public Prosecutions Office were mainly related to bribery, abuse of power, forgery, fraud as well as election related crimes.

Facing the rapid economic growth of Macao in 2005, the CCAC paid close attention to public servants who may abuse their power for personal gains to make "quick money". In

January, the CCAC detected a case in which a policeman swindled money with the excuse of recovering debts for the victim. In March, a Judicial Police was caught by the CCAC for abusing his power to extort a suspect; and a first case of this kind was discovered as a bank staff was bribed to embezzle the bank's fund. In April, it was discovered that a policeman from the Public Security Police Force had embezzled exhibits. Another case involved an officer equivalent to the division head of the Fire Services Bureau and a senior fire fighter forging a preliminary property contract for fraud. Confronted with constant changes of social developments, the CCAC will strengthen its efforts in gathering information, maintaining close watch on alternated ways of corruption and fortifying the combating force so as to keep the measures of fighting corruption up-to-date.

Following are excerpts of some selected cases referred to the Public Prosecutions Office in 2005:

January: The CCAC discovered a fraud case of MOP15,000.00 which involved a police officer of the Public Security Police Force. He demanded a victim to pay him MOP15,000.00 so as to recover a debt for the victim. To gain the victim's trust, the policeman provided him with copies of his staff card and identity card, and issued a MOP15,000.00 cheque as a guarantee, promising the victim if he could not recover the debt, the victim would be permitted to withdraw the cheque. However, he failed to recover the money after the due date and the cheque he issued could not be cashed since his bank account was cancelled.

March: An auxiliary staff of the Social Welfare Bureau was found cheating for housing allowance. The auxiliary staff had always been using her apartment located in Taipa to apply for housing allowance while she was actually living in Travessa do Gamboa. From June 1993, when the apartment was bought by the staff and her husband, to February 2003, she frequently rented it out at a price between MOP2,500.00 to 2,700.00 while continuously receiving the allowance, totalling MOP115,100.00. She was suspected of having committed the crime of fraud.

March: A bank manager was discovered to have



committed crimes of fraud, dishonesty, abuse of trust and bribes involving as much as HK\$430 million. He was suspected of having taken out HK\$438,000.00 from the treasury without permission, and provided the guarantee of a blank cheque previously signed by an electronic firm. It was also discovered the son of the owner of the firm had collaborated with others and forged business transactions in order to obtain a letter of credit (L/C) and a loan of more than HK\$430 million. Meanwhile, the branch manager was also suspected of having received bribes from the firm to cash early the firm's cheque of loans without the permission of the bank, which caused a loss in interest for the bank. His misconduct was suspected of having constituted the crimes of serious fraud, dishonesty, abuse of trust and bribery.



March: Two policemen of the Judiciary Police were suspected of receiving bribes and abuse of power. During an investigation of a robbery case in 2003, it was found that a complainant's mobile phone was the one being stolen, therefore the complainant was suspected of having been involved in the robbery. The two judiciary policemen then extorted the complainant for 30,000.00 to MOP 50,000.00 and threatened to arrest him. One of the policemen also asked the complainant to repair his three VCD players and a video camera for free. After bargaining, the agreed bribe was lowered to MOP 30,000.00. On





16 March 2005, the complainant pretended to pay half of the bribe (MOP15,000.00). While one of the policemen was receiving the bribe, he was caught by the CCAC on the spot.

April: A case of fraud and forgery was disclosed which involved a division head and a senior fire-fighter of the Fire Services Bureau. The CCAC exposed that the division head had forged a property contract to claim that he had bought six units of an unfinished building located in Fai Chi Kei of the northern district. He then sold the property to a businessman for MOP10 million.



The two involved and the businessman met in a restaurant in Estrada de Coelho do Amaral, where the trade documents were signed based on the forged contract. While the two suspects received MOP1.03 million of earnest and deposit by cheque, they were caught on the spot by the CCAC. Following it up, the CCAC found the forged property documents and computer files in the senior fire-fighter's office. Meanwhile, it was also revealed that the division head had previously committed a similar fraud, pretending he "owned" almost a hundred parking spots in the same building with some of them already sold and the rest about to be sold.

April: The CCAC detected a case where a Public Security Policeman and a sub-chief were suspected of having committed crimes of embezzlement, favouritism practiced by public servants and prevarication. One day in February 2005, there was a gang fight in a karaoke bar located in the central. When the policemen arrived at the spot, most of the people involved had left except a few wounded persons. One of the policemen was suspected of embezzling a golden necklace (which should be used as an exhibit) left on the spot and pocketed it. When the owner reported to the district police office, the sub-chief on duty deliberately concealed the event and hampered the investigation procedure. It had constituted crimes of embezzlement, favouritism practiced by public servants and prevarication of public servants.

May: Three employees of the library of the University of Macau were found fabricating attendance records and cheating for sick leave as well as cheating for housing allowance. The CCAC discovered that between May 2002 and August 2004, a staff member at the University library had made use of the entrusted authority and betrayed the superior's trust and fabricated his attendance records for as many as 389 days; the second had cheated for housing allowance

in the amount of MOP132,300.00; while the third had cheated for housing allowance in the amount of MOP95,300.00 and family allowance for MOP29,290.00 respectively. They were suspected to have committed crimes of abuse of power, forgery and cheating for housing allowance.

July: A public servant of the Civic and Municipal Affairs Bureau (CMAB) was suspected of having cheated for housing and family allowance; while a public servant of the Public Security Forces Affairs Bureau was found cheating for family allowance. It was revealed that since February 1990 to the date of discovery, the public servant of the Civic and Municipal Affairs Bureau had used fabricated renting receipts and false statements eight times to apply and to receive housing allowance, totaling as much as MOP117,900.00. Meanwhile, the staff of CMAB had cheated for family allowance of MOP14,780.00 under his spouse's name. The CCAC also tracked down the staff's wife, also a staff member of the Public Security Forces Affairs Bureau, who also received the family allowance of MOP55,140.00 with the knowledge that her husband had already received the family allowance for his three children. Their behaviour was liable to have constituted the crimes of forgery and fraud.

July: The CCAC detected a case in which a sub-chief of the Public Security Police Force was suspected of having counterfeited documents, forged technical records and abused his power. It was discovered that the sub-chief had sick leave on 14 September 2004 and planned to leave Macao next morning from the check point of Portas do Cerco. In order to avoid having a record of leaving Macao during his sick leave, which might cause an internal disciplinary punishment, he required his inferior not to slide his identity card in the check point but was refused. Furthermore, it was also discovered that from the beginning of 2003 to the end of 2004, the sub-chief left Macao 128 times, of which he did not leave complete passing records 55 times when the computer system operated normally. The person was suspected of having committed crimes of forgery, forging technical records and abuse of power.



August: A case of retention of voter registration cards was exposed, involving 18 suspects. On 23 June 2005, a man surnamed Tai was caught on the spot by the CCAC while he was collecting voter registration cards with money in Rua de Cantão. Several voter registration cards not belonging to him were also found. In the afternoon of the same day, another suspect surnamed Chong, when trying to collect people's voter registration cards was caught red handed by the CCAC and another five voter registration cards were seized. Based on these findings, the CCAC followed the clue to track down an organization headed by two men surnamed Sio and Wong, who systematically allured people to surrender their voter registration cards in an attempt to influence their voting orientation in the Legislative Assembly Election in 2005. Eighteen suspects were involved in this case.



Suspects were caught by the CCAC staff on the spot

September: An organized crime of bribing and retaining people's voter registration cards was detected and 21 suspects caught. In May 2005, the CCAC received a complaint and searched a company where a large number of voter registration cards and related information were found. A pile of cake coupons was then unearthed from a compatriot's association. Having further investigated, it was found that the president of the compatriot's association was suspected of having organized his compatriots and others to support him in the election by promising a pay of MOP500.00 or a coupon for each card collected or to allure others to be registered as voters so as to affect their voting intention.

September: An organized crime of illegal retention of people's voter registration cards was detected, involving 484 suspects. On 23 May 2005, the CCAC received a tip-off and went

to a restaurant in Taipa where a hotel employee surnamed Wong was found requesting others and their relatives to provide their voter registration cards. Wong promised that the company he worked for would pay the voters MOP500.00 if they voted for a certain candidate. The suspect was caught by the CCAC on the spot. Following up on the event, the CCAC staff continued their investigation in the hotels and other places and discovered a large amount of evidence, including MOP5,500.00 fees for 11 people who had surrendered their voter registration cards (the money was clipped on the list of the 11 card holders with the copies of their voter registration cards), together with application forms of natural voter registration, receipts of voter registration cards, copies of voter registration cards and copies of identity cards, water and electricity bills, lists of qualified voters of the hotels as well as many voter registration cards. A follow-up exploration further disclosed that someone was suspected of having organized corrupt electoral activities targeting employees of several companies within the same conglomerate. Four hundred and eighty-four suspects were involved in this case.



Documents being confiscated on the spot (money suspected for bribery was attached to the list of voters)





The CCAC held press conference

December: A case of two staff members of the Port Authority involved in cheating for housing allowance was detected. While a public servant of the Port Authority had been living in the mainland, he used the forged rent receipts of his friend's apartment to cheat for the housing allowance for a long period of time. From January 1994 to January 2005, in total he had received MOP129,600.00 illegally. Another staff member of the Port Authority had cheated for the housing allowance for MOP66,140.00 by using false information.

December: A case of retention of voter registration cards, bribery and organized crime was discovered, involving 28 suspects. It was revealed that an association leader was suspected of having collected voter registration cards from some "border-crossing vendors" in the northern district and a few 18-year-old high school students, bribing them with MOP500.00 for voting for a certain candidate.

December: A case of bribery and organized crime was detected. An investigation found that a security guard of a casino surnamed Chan was suspected to have asked his brother to bribe some voters with MOP500.00 for a certain candidate. His brother, assisted by two men surnamed Cheong and Cheang, then collected copies of some friends' voter registration cards and required them to vote for a certain candidate promising to offer MOP500.00 to each voter. Cheong had finally collected copies of 15 people's voter registration cards and required them to vote for a certain candidate. A MOP500-bribe per voter was also promised. A total of 22 suspects were involved.



December: A large scale case of electoral corruption, voter registration cards retention and bribery related to electoral registration and organized crimes, involving 146 suspects was detected. In July 2005, the CCAC discovered a man surnamed Fong had collected voter registration cards from the parents of school students and provided MOP200.00 for each card, promising them another MOP300.00 later on. After preliminary investigation, the CCAC discovered that Fong had transferred the voter registration cards previously collected to a man surnamed Loi, and found 58 voter registration cards in his domicile. Through a follow-up investigation, a candidate was suspected of having systematically bribed many people with MOP500.00 each and retained their voter registration cards or persuaded them to be registered as voters in order to ensure their voting orientation. In some cases, they were paid MOP500.00 straight away and persuaded to vote for a certain candidate. Besides, the candidate also appealed to voters outside of Macao to come back to vote by providing free air tickets, orientating them to vote for a certain group.



Voter registration cards, cash and coupons confiscated in a suspect's home

### 4.3 Fighting Against Electoral Corruption

#### 4.3.1 Preparation

Ensuring the integrity of the 3<sup>rd</sup> Legislative Assembly Election of Macao SAR was an important task of the CCAC. As early as in 2004, the CCAC had already set up a "Research Unit" and "Investigation Unit". The former consisted of directors and chiefs of different departments of the CCAC, and was responsible for developing strategies to combat electoral corruption and instigating education for a clean election; the latter consisted of experienced investigators, responsible for information gathering, conducting investigations and fighting against electoral corruption.



Press conference on fighting against electoral corruption

Facing a complex situation, the “Research Unit” worked out a series of publicity and educational programmes directed both to the general public and special groups of target audience, hoping to make full use of the current resources to achieve the best possible results of publicity and education in various and multidimensional ways. Some of the projects are as follows:

1) Inviting renowned members of the society to be the “Clean Election Ambassadors”, including D. José Lai, the Bishop of the Macao Catholic Church (diocese), Rev. Lam Iam Man, Christian Sheun Tao Church Hong Kong and Macao District, Sik Kin Chio, Director of the Union of the Buddhist Association of Macao, Lei Seng Chon, the Chairman of the Press Association of Macao, Lau Sin Peng, experienced educator, Iu Vai Pan, Rector of the University of Macau, Lei Heong Iok, President of Macao Polytechnic Institute and Xu Aoao, Rector of the Macau University of Science and Technology.

2) Publishing Guidelines of Clean Election for Candidates for group references. Three versions of the Guidelines were printed out in leaflets and one version was delivered through “Direct Mail” service of the Macao Post Office to every household in Macao.

3) Organizing seminars and symposiums:

“Clean Election Symposium” for candidates was held to explain the main points of the Election Law and to clarify any doubts.



"Clean Election Symposium" for candidates



"Clean Election Symposium" for students

In total, the CCAC held 23 symposiums for civil associations, staff of enterprises and schools, with 2,573 person-times. In addition, reminders of being voters and election agents were also explained to the leaders of student unions in four tertiary education institutes. During the symposiums, three short films adapted from real stories were shown to demonstrate some common tricks of electoral corruption, keeping the public alert.



"Clean Election Symposium" for civil associations

Table 11  
Statistics on participants of "Clean Election Symposiums" in 2005

2005	Institutions	Participants	Number of sessions	Number of participants
1	Tertiary education institution	Students	10	438
2	Union of the Neighborhood Associations of Macao	Members of the association and staff	1	150
3	Senior Citizens' Club of the Fatima Community Centre	Associates	1	60
4	Macao Journalists Association	Associates and media professionals	1	20
5	Association of the Professionals of the Public Administration of Macao	Associates and their family members	1	40
6	Community Centre of Tamagnini Barbosa of the General Workers' Union of Macao	Associates	2	154
7	Macao New Chinese Youth Association	Ambassadors of Youth Conference	1	36
8	Service Centre of the Deaf Association of Macao	Associates	1	40
9	Community Centre for Senior Citizens of the Neighbourhood Association in Northern District	Associates	1	55
10	Compatriot Association of Chon Kóng/ Hotel Golden Dragon	Associates/Staff	1	80
11	Adult Education Centre of DSEJ	Adult students in primary and secondary education	1	210
12	Pui Tou Middle School	Students	1	1,270
13	Caritas of Macao	Associates	1	20
<b>Total</b>			<b>23</b>	<b>2,573</b>





Commissioner of the CCAC Cheong U, President of Election Committee Fong Man Chong, Director of Public Administration and Civil Service Bureau José Chu, Vice-President of the Administration Committee of the Civic and Municipal Affairs Bureau Tam Vai Man presiding over the opening ceremony of “Join Together to Fight Electoral Corruption”

4) In August and September, four outdoor activities of “Join Together to Fight Electoral Corruption” were organized in the northern and central districts and Taipa, including variety shows, booth games, exhibitions as well as dramas of “clean election”. The messages of clean election were transmitted to the public by all means.



The 3<sup>rd</sup> activity of “Join Together to Fight Electoral Corruption” was held in the Leal Senado Square



Booth games of "Join Together to Fight Electoral Corruption"

5) The CCAC participated twice in the "Happy Day of Voters Registration" which was organized by the Public Administration and Civil Service Bureau and the Election Committee, as well as took part in the "Day of Beginning of the Election Promotion for 2005 Legislative Assembly Election".

6) Publicizing messages on clean election through television, radio, posters, bus advertisements, taxi advertisements, wall advertisements within buildings, billboards, banners, colour-flags, public reception areas and so on.



Bus advertisements





Taxi advertisements



Huge billboards, banners and light-boards on the street to promote clean election



In cooperation with the Identification Bureau, a short film of "Clean election" was shown on a giant telescreen in the check point of Portas do Cerco

7) A web page was launched on the internet to publicize the news of the CCAC's efforts to combat electoral corruption, current promotion activities, guidelines and the relevant information.

8) Producing a series of sixteen radio programme of "Let's talk about a clean election". Staff members of the CCAC joined a radio "phone-in" programme to explain initiatives to combat electoral corruption and took part in the "Enquiry and Reply" television programme to answer questions concerning the election.



The CCAC staff joined a radio "phone-in" programme to answer questions on election



9) Posters against electoral corruption were put up inside residential buildings.



Posters inside residential buildings

10) A Paper game of “Clean Election Quiz” was organized to bring out the relevant information by way of entertainment.

11) Promotional materials for publicity

– Various items to promote clean election were produced, such as stickers printed with the anti-electoral-corruption hotline, bookmarks, decorated fans, ballpoint pens, key rings, towels, note-pads, CDs containing the publicity songs and so on.



Various items for promotion were produced



Various posters against electoral corruption

–Assisted by schools, various souvenirs of the publicity on a clean election were delivered to kindergarten, primary school and secondary school students with the hope that their parents would get the message, as well as to make best use of the limited resources and to achieve the best results.

12)Through press releases and press conferences, updated information on the clean election campaign and cases detected were promptly delivered to reinforce the message of anti-electoral-corruption.



News excerpts of suspected election fraud

### 13) Surveys on the election

In order to promote the message of clean election as well as collecting reference materials for the campaign, from 3 September to 23 September 2005, the CCAC staff members, joining hands with more than 200 "CCAC Volunteer Team" members, conducted a survey through door to door interviews and street interviews for 19 days. In total, 8,541 valid questionnaires were gathered, accounting for 2.21% of Macao residents over 15 years of age (about 385,733



people). With interviewees from all walks of life, students, office staff, workers and housewives constituted the majority. The age of the interviewees ranged mainly from 31 to 45, accounting for 38%. The Main focus of the survey included voting incentives, the effects of the publicity against electoral corruption, people's awareness of clean election, the residents' perception of the seriousness of electoral corruption and so on.



“CCAC Volunteer Team” conducting survey

Table 12  
Interviewees' view on the best way to publicize message of a clean election

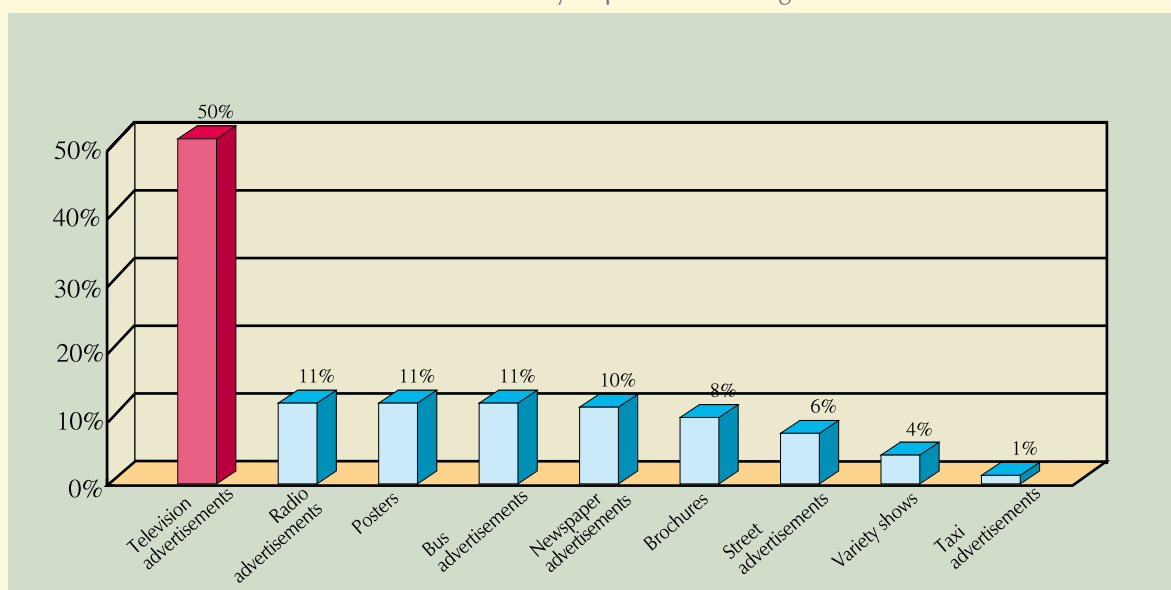
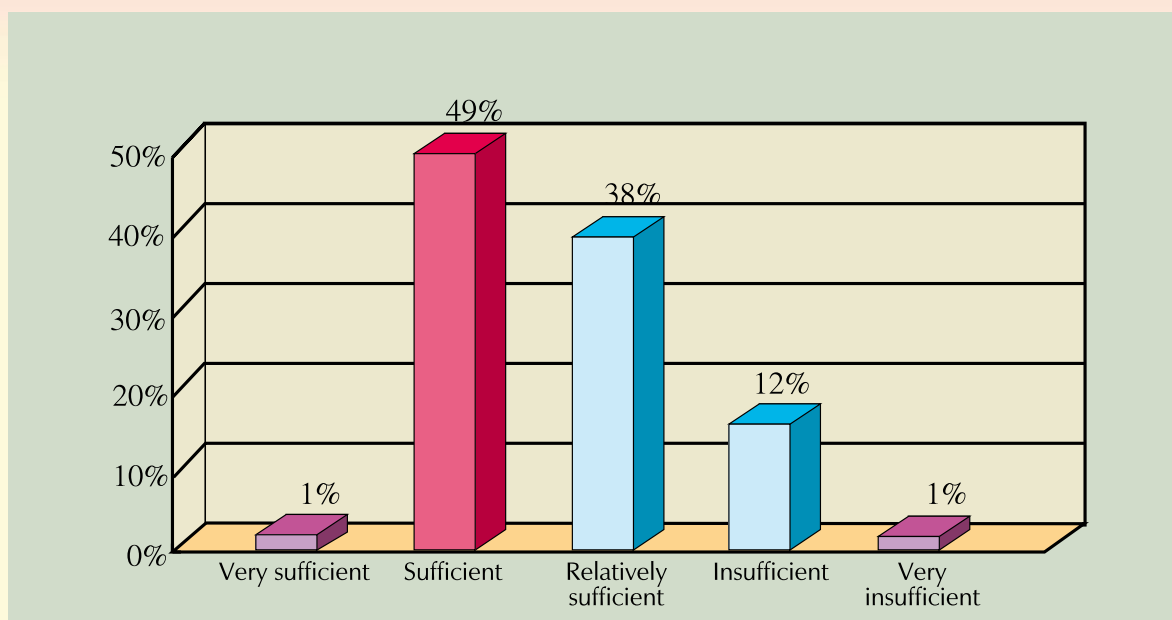
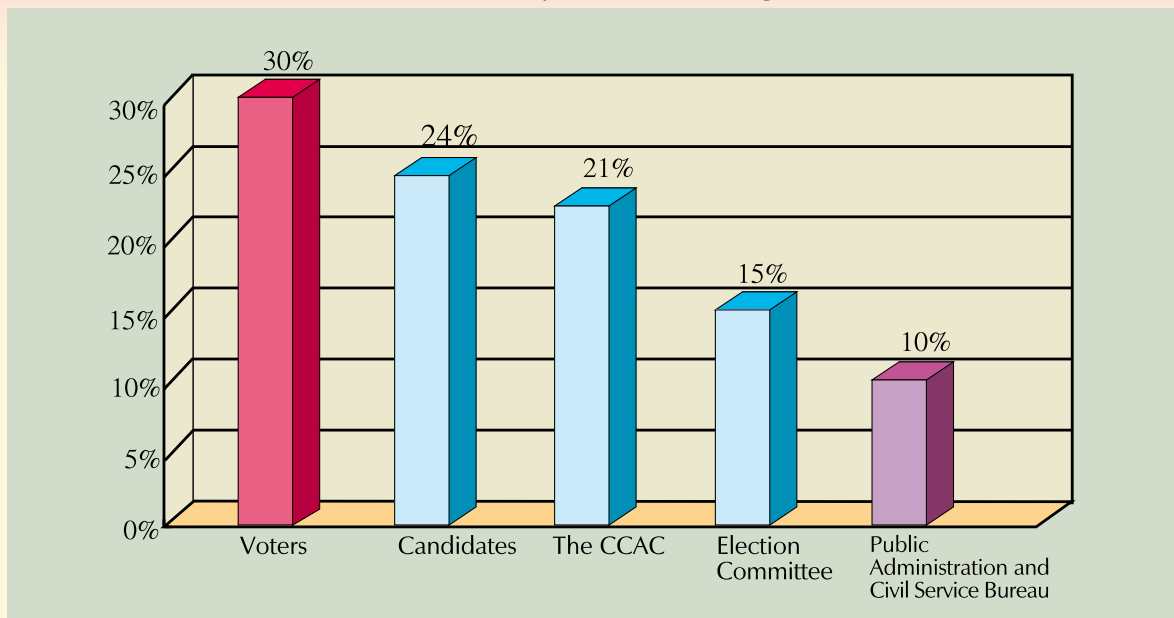


Table 13  
Interviewees' view of the current situation of the publicity against electoral corruption



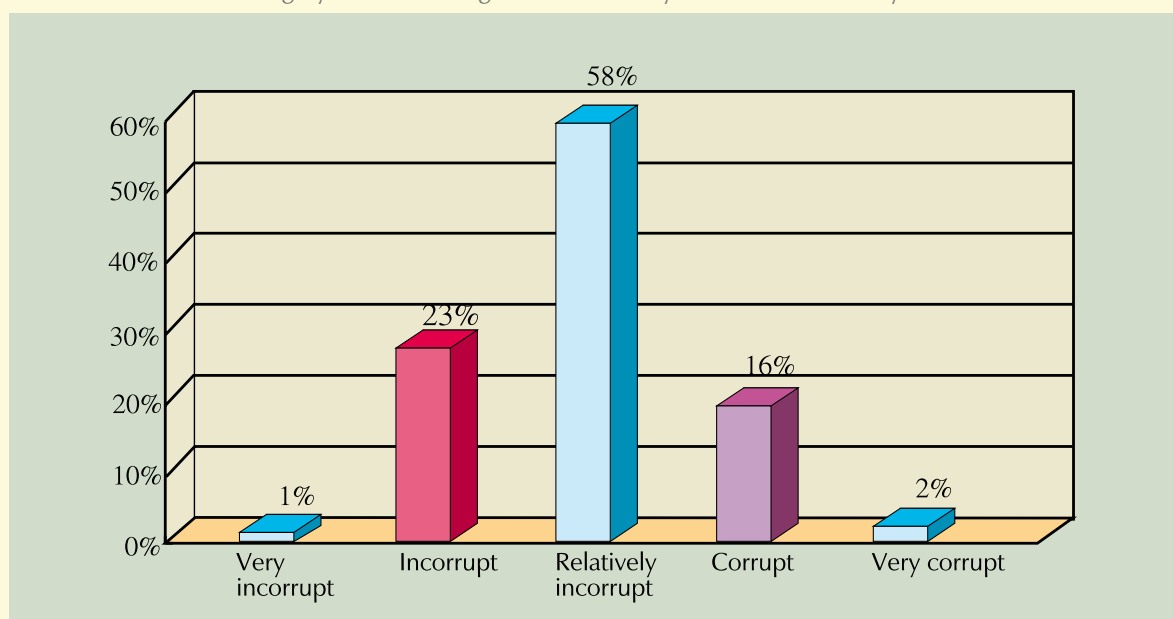
The surveys revealed that among the interviewees, 7,094 people had been reached by the publicity against electoral corruption, accounting for 83.06%. Whereas there is an even higher proportion of voters, amounted to 86.83% who had heard of the related message since they paid more attention to the publicity. In general, half of the people believed the best way to promote publicity was through television advertisements. Besides the television advertisements, different channels of promotion cast different effects in different districts, such as people in the central, NAPE and the old district thought the best way of publicity was through the newspapers; people in northern district, Mong Ha, and Fai Chi Kei, however, reckoned the best way was with posters and bus-ads and, since people living in Taipa were normally car-drivers, therefore radio was more attractive to them in terms of the publicity. All these figures are useful references for the CCAC in carrying out its publicity in the future. Meanwhile, the survey also showed that people generally believed the publicity of the anti-electoral-corruption to be effective and only 13% believed it to be otherwise or even very ineffective.

Table 14  
Who are deemed most responsible for ensuring a clean election



In terms of who were most responsible for a clean election, the interviewees believed that it should be in the following order: the voters, the candidates and the CCAC. It shows that the Macao residents understand that voters are greatly responsible for a clean election and the government only plays a monitoring role.

Table 15  
The level of integrity of the 3<sup>rd</sup> Legislative Assembly Election deemed by the interviewees



According to the surveys, most of the interviewees understood that it was a crime to receive advantages (money, food and beverage, etc.) in order to vote for a candidate upon the beneficiary's instruction. Meanwhile, concerning the integrity of the election, 58% believed it was relatively incorrupt, 23% thought it was incorrupt and only 18% conceived it to be corrupt or very corrupt. There were several reasons found for complainants not to lodge their complaints in person, such as "avoid troubles", "it is useless to lodge complaints", "lacking concrete evidence", "fearing avengement and personal safety" and so on.

#### 4.3.2 *Cases of Anti-electoral-Corruption*

In 2005, the CCAC received a total of 423 complaints concerning the election through various channels. 341 cases of which were recorded through the 24-hour anti-electoral-corruption hotline 6616610 particularly set up for the election, 82 were received through other channels, including the telephone line 361212, in person, by mail, faxes, emails and cases transferred from the other departments. Compared to 2001 where there were only a few dozen complaints lodged through the hotline, there was a sharp increase in 2005 which reflected the keen competition of election and people's expectations for the election. Nevertheless, it is worth noticing that the subjects and contents of these complaints were more or less the same, mainly involving bribery, illegal retaining of voter registration cards, intimidating voters, free food and beverage provided by certain groups for the purpose of bribery and so on. It should be taken into account that some of the complaints lacked evidence or belonged to the area of Election Committee.

Based on the preliminary investigation and summarizing of the reported data, 12 cases were commenced for investigation, of which 6 cases were transferred to the Public Prosecutions Office. It was found that every case had extensive and intricate connections and in total there were 700 suspects involved. In two cases where the evidence was sufficient, the main candidates on an election list were classified as suspects. It is worth mentioning that among the 6 cases transferred to the Public Prosecutions Office, 5 of them were reported by the enthusiastic residents through the anti-electoral-corruption hotline.

Table 16  
Statistics of complaints and enquiries about the Legislative Assembly Election in 2005

	Complaints		Enquiries		Total
	Fight-against-electoral corruption hotline	Other means	Fight-against-electoral corruption hotline	Other means	
Before the election	247	82	168	21	518
Election day	93	—	36	—	129
After the election	1	—	3	—	4
<b>Total</b>	<b>423</b>		<b>228</b>		<b>651</b>

Note: "Anti-electoral-corruption 24-hour hotline" was a telephone hotline available between April to October 2005 for the Legislative Assembly Election. The phone number was 6616610

Apart from the cases commenced for investigation, the CCAC has also put lots of efforts to handle other related complaints, such as analyzing and scrutinizing the complaints, intervening in cases that might have breached the electoral regulations or were on the verge of breaching the law so as to prevent electoral corruption before it emerged. Moreover, information concerning the election was collected for analysis to prevent irregularity. After the election, the CCAC has continued to follow up on the cases as well as provide some suggestions for amending Electoral Registration Law and Election Law of the Legislative Assembly of Macao SAR based on the past irregularities.

#### 4.3.3 On the Election Day

All staff members of the CCAC were on duty on the Election Day. 129 complaints and enquiries were recorded on that day and all were promptly answered. 74 people were taken to the CCAC office from different polling-stations to assist investigation, and one of them was deemed a suspect of receiving a bribe, while some of them were under investigation in new cases.

### 4.4 Assistance in Investigations of Cross-Regional Cases and Strengthening the Investigating Force

#### 4.4.1 Assistance in Investigations of Cross-Regional Cases



It has been more than 10 years since the CCAC established the mutual case assistance relation with counterparts outside Macao in 1994. Looking back over the past 10 years, the investigating tasks have been on the rise in terms of either quantity or difficulty, which may be closely related to the rapid development of Macao's gaming industry and the frequent contacts between Macao, the mainland and Hong Kong.

In 2005, the CCAC had assisted the counterparts outside Macao in the investigation of 23 cases. Including the cases commenced in 2004, there were a total of 25 cases completed in 2005. Another 15 cases were still in progress. Meanwhile, assistance for evidence gathering on several cases was offered to law enforcement agencies outside Macao. In both ways, the cooperation was going well.

To improve the cooperation in mutual case assistance, the "1<sup>st</sup> Symposium on Mutual Case Assistance-Guangdong, Hong Kong and Macao" was co-organized by the CCAC, the ICAC of Hong Kong and Guangdong People's Procuratorate in Guangdong Province in June 2005. During the symposium, the three partners had further explored the possibility of widening cooperation and reached various agreements that laid a foundation for better mutual case assistance. The three partners agreed to hold symposiums alternatively in the three regions annually, to fortify the exchange and cooperation.



The "1<sup>st</sup> Symposium on Mutual Case Assistance-Guangdong, Hong Kong and Macao"

In the future, the CCAC will continue to assist other regions' law enforcement agencies in investigation and evidence gathering and extend the channels on mutual case assistance to fight against corrupt crimes which become more cross regional in nature.

#### *4.4.2 Strengthening the Investigating Force*

The CCAC has always emphasized the training for its investigators to improve their techniques in fighting corruption. In 2005, there were routine indoor and outdoor physical training and collective activities to promote team spirit, collaboration and a sense of mission. Once a major investigation was completed, a meeting would be organized to evaluate the process and share experiences for future improvement.

For the professional training, the CCAC held a series of lectures on the concept of public servants defined in the Penal Code and occupational crimes, explaining components of various occupational crimes, points for attention in evidence gathering and case studies. Concerning the issue of money laundering, an experienced inspector from Hong Kong against money laundering; and an expert who was in charge of internal monitoring of the bank were invited by the CCAC to conduct special seminars. Professor Li Meijin of the Chinese People's Security University also came to lecture a course on criminal psychology. Moreover, several groups of investigators were sent to the Chinese People's Public Security University in Beijing, Hong Kong ICAC and other overseas law enforcement agencies to receive training on money laundering prevention, weapon usage, information gathering, financial crimes and handling of special equipment and so on.



Professor Li Meijin of the Chinese People's Public Security University lecturing on criminal psychology

In 2005, the CCAC implemented recruitment for new investigators to strengthen its investigating force. Since the publishing of a recruitment advertisement in October 2005, 1,067 people have enrolled for examination. Among them were candidates with rich social experiences and university degree holders or above. Eight distinguished candidates were chosen for the training course after going through the five stages of qualification assessment, written examination, physical fitness test, home visit and interview. The four-months training course will commence in March 2006, and the trainees will receive training on code of conduct, disciplines, laws, investigating skills, physical training, weapon usage as well as being trained in some relevant institutions in Hong Kong and in the mainland.

## 4.5 Cases Adjudicated by the Court

Table 17  
Excerpts of court verdicts in 2005

Date of sentence	Accused/suspected	Status of the accused/suspected	Verdicts
10/1/2005	leong Chan Lam	Former head of the Construction Department of the Macao Slaughterhouse	The case was concluded in 2004, and the first accused, leong Chan Lam, refused to comply with the sentence and appealed. The collegial panel reopened and reviewed the case, finally dismissed the appeal and found leong Chan Lam guilty of embezzlement and forgery; he was sentenced to 2 years and 3 months imprisonment. Victor Manuel Leal Almeida was also found guilty of embezzlement and sentenced to 3 years imprisonment. The court proclaimed that the two accused could not be on probation and were obliged to pay damages to the Macao Slaughterhouse.
	Víctor Manuel Leal Almeida	General Manager of the Macao Slaughterhouse	
1/3/2005	José Filipe Nunes Dourado	Former staff of the Port Authority	The three accused were found guilty. The first accused, José Filipe Nunes Dourado, was found guilty of using forged certificates and fined for penalty of 90 days, accounting for MOP 4,500; or sentenced to 60 days imprisonment if he did not pay the fine. The second accused, Américo Martins de Jesus was found guilty of forging certificates and fined for penalty of 100 days, accounting for MOP 5,000; or sentenced to 66 days imprisonment if he did not pay the fine. The two had to pay the costs of the legal proceeding. The third accused, João José Arrobas Cardoso das Neves was tried by default, and found guilty of forging documents, sentenced to 7 months, on 18 months probation.
	Américo Martins de Jesus	Non public servant	
	João José Arrobas Cardoso das Neves	Doctor of orthopaedics in Hospital Conde S. Januário	
27/5/2005	Chan Soi Kei, Lei Meng Fan, Choi Chan Son, Ng Leong Hong, Ip Peng Weng, and Choi Chi Lam	Non public servants	The six were found guilty of forging Philippine driver's licences in exchange for Macao driver's licences. The first accused, Chan Soi Kei, was found guilty of forging documents of special value, and was sentenced to 2 years and 6 months imprisonment, on 3 years' probation on the condition that MOP 6,000 fine be paid to the Macao SAR government within 3 months. The second accused, Lei Meng Fan initially rejected the accusation, however, after the collegial panel reviewed the case, the evidence was judged as sufficient and the accused was found guilty of forging documents of special value. He was sentenced to 2 years imprisonment, on 2 years and 6 months' probation on the condition that MOP4,000 be paid to the Macao SAR government within 3 months. The remaining 4 accused, Choi Chan Son, Ng Leong Hong, Ip Peng Weng, and Choi Chi Lam were also found guilty of forging documents of special value and sentenced to 1 year and 6 months imprisonment, on 2 years' probation on the condition that MOP3,000 be paid to the Macao SAR government within 3 months. The 6 accused had to serve the sentence if they did not pay the fine. They had to pay the costs of the legal proceeding besides the mentioned punishment.

## **CHAPTER V**

### **OMBUDSMAN**

## CHAPTER V - OMBUDSMAN

In the area of ombudsman, the CCAC recorded 220 complaints and 608 enquiries in 2005, concerning issues of the legal system governing public services, municipal affairs and legal consultations. The overall figures declined compared to those in the previous year, which might be attributed to the promulgation of Guidelines on Professional Ethics and Conduct of Public Servants and Recommendations on the Formulation of Code of Conduct for Public Services and Institutions.

After receiving the cases of administrative complaints, the CCAC would first analyze their nature and problems, then adopt multidimensional measures (such as referral, informal intervention) to handle the cases promptly, flexibly and effectively. In the meantime, the CCAC had changed its past practice in which every case was commenced for investigation; rather, a discreet screening procedure was in place to evaluate the cases before deciding on commencement for investigation. As for the intricate cases (such as problems related to legal systems or operations of government departments) where individual intervention has little effect, “research and examinations of systems and operations” would be used.

Concerning the research and examination in 2005, the CCAC completed two researches on systems, namely “The Prosecution Procedure and Sanction Procedure against Administrative Infringements” and “The System of Serving Exclusively the Public Interest and Not Engaging in Incompatible Activities for Public Servants”. The reports were delivered to the administrative authorities. In terms of examination on operations, the CCAC collaborated with other departments such as the Civic and Municipal Affairs Bureau in reviewing the operations of their subsidiary units, as well as followed up on the Health Bureau and Macao Trade and Investment Promotion Institute on their implementation of the improvement measures.

In order to improve the internal management of different departments/institutions, increase the transparency of work processes and strengthen people’s awareness of integrity, the CCAC formulated Guidelines on Professional Ethics and Conduct of Public Servants and Recommendations on the Formulation of Code of Conduct for Public Services and Institutions in 2004. In 2005, the CCAC spared no efforts in launching various promotional activities, including distributing the publications to all public servants and organizing a series of seminars for the directors and chiefs and public servants of Macao. In the meantime, the CCAC actively



followed up with individual departments on the formulation of internal guidelines suitable for their own working environments and provided them with technical assistance in terms of guideline contents. In addition, the CCAC organized a number of seminars/workshops on public procurement at the request of several departments and conducted workshops on the same topic as an integral part of the training organized by the Public Administration and Civil Service Bureau.

Moreover, in order to strengthen the capacity of ombudsman personnel and to learn efficient working methods from other regions, in 2005 the CCAC sent some staff members to attend the leadership-training course held by ICAC of Hong Kong, and the investigation course co-organized with the Chinese People's Public Security University. Meanwhile, it also assisted the Ministry of Supervision of the People's Republic of China to run personnel training courses. The staff members also participated in many international conferences, maintaining international contacts and learning experiences from each other.

## 5.1 Investigation

### 5.1.1 Case Interventions

#### 5.1.1.1 Cases Recorded and Processed

In 2005, the CCAC processed 220 cases of administrative complaints, mostly involving the legal system governing public services, municipal affairs and illegal constructions. Including 83 cases brought forward from 2004 and excluding 31 overlapping cases, there were 272 cases in total to be processed throughout the year. Of these, 238 cases were handled, accounting for 87.5% of the total, an increase of more than 10% compared to 77.2% in 2004.

Table 18  
Classification of cases of administrative complaints in 2005

Problems involved	Numbers
Legal system governing public services (staff rights and interests, recruitment, internal management, discipline and abuse of power)	74
Municipal affairs	33
Illegal constructions	30
Education, medical and health matters	8
Traffic offences	5
Insurance	5
Public procurement	5
Irregularities in other administrative procedures	56
Matters outside the competence of the CCAC	4
Total	220

In 2005, the number of complaints in the area of ombudsman dropped compared to the previous year when the number of cases was unprecedentedly high. In 2004, the CCAC intensified the promotion of ombudsman and established its branch office, which might have contributed to the sharp increase of complaints in that year. Concerning the obvious decline of complaints in 2005, there were several possible reasons as follows:

I – Since the CCAC promulgated Guidelines on Professional Ethics and Conduct of Public Servants and Recommendations on the Formulation of Code of Conduct for Public Services and Institutions, and held seminars entitled “Noble Character, Righteous Conduct” for all the public servants of Macao, the public servants became more aware of the issue and consequently avoided administrative illegalities or malpractices. In the meantime, as more departments/institutions had formulated their internal working guidelines and operating procedures, transparency was increased and personnel conduct was regulated, resulting in better management and the decline of complaints.

II – In 2005, the number of enquiries concerning the legal system governing public services and Guidelines on Professional Ethics and Conduct of Public Servants doubled compared to that in 2004. This in a way reflected that the citizens and public servants had become clearer



about administrative illegality or malpractice, and how to protect their own rights after the CCAC's explanations on the operation of different departments/institutions, enforcement of law by agents and application of relevant laws. Consequently, it also lessened the necessity of the citizens lodging complaints with the CCAC.

III – As government departments/institutions all started providing consultations on law amendments concerning transportation, health, labour and other issues closely related to people's livelihood, citizens could express views through various channels. As for some more complicated problems that could only be solved by amending current laws, such as issues concerning transportation, illegal constructions, punishments for certain infringements lacking deterrent power and so on, the CCAC clarified the situations for the citizens, which also contributed to the decline of similar complaints.

In addition, there were 238 cases filed in 2005 for reasons such as lacking sign of administrative illegality or malpractice, cases having been handled (through case referral, informal intervention and advice or suggestions given by the CCAC), cases outside the competence of the CCAC, and cases lacking evidence and so on. It is worth mentioning that among these cases recorded, there were 172 cases found unrelated to administrative illegality or malpractice (70% of the total), an increase of 60% compared to that of the previous year. Even for such cases, when it showed room for improvement by the relevant departments, the CCAC would provide them with suggestions or opinions, such as perfecting the working procedures, reviewing personnel arrangements, formulating internal working guidelines, strengthening information exchange, or even drafting amendments to current laws or regulations. The departments responded positively to all the suggestions.

Table 19  
Cases of administrative complaints handled in 2005

Reasons for cases filed	Numbers
No signs of administrative illegality or malpractice	172
Handled by respective departments (referral, informal intervention, advice or suggestions)	37
Lack of evidence	15
Outside the competence of the CCAC	11
Others	3
<b>Total</b>	<b>238</b>

#### *5.1.1.2 Cases Commenced for Investigation and Given Recommendation and Suggestions*

In 2005, the CCAC conducted in-depth investigations into two cases as well as provided recommendation and suggestions, concerning “Personnel Regulations in Administrative and Financial Autonomous Entities” and “Supervisory System Governing the Discipline of the Directors and Chiefs”. A summary of the documents was included in the Appendix.

#### *5.1.1.3 Suggestions on Amending the Road Code and the Road Regulations*

As stated above, traffic management and violations were major issues of complaints that were in fact closely related to the Road Code and the Road Regulations. As the Macao SAR Government consulted the public about amendments to the two laws/regulations in 2005, the CCAC took the initiative to contact the competent authority, the Law Reform Office. The CCAC raised certain traffic-related problems discovered and suggestions derived from past working experience, from analysis of relevant laws and regulations, and from discussions with relevant departments. An abstract of the problems proposed to the Law Reform Office is as follows:

Abstract of problems	Relevant laws
1. The authoritative entity in canceling temporary driver's certificates is not yet clearly defined by the law; even if a point-deduction system is introduced later on, it is still imperative to definitely clarify the authority concerning the cancellation of driving qualifications.	Road Regulations, Article 66, Clause 11
2. The law should clearly define whether a driving qualification derived from false data contained in a driver's licence shall lead to disqualification, as it involves the issue of re-application for the licence.	Road Regulations, Article 66, Clause 7
3. The current regulations require driver's licence examinees and driver's licence holders to pass a special examination by oculists. However, since private oculist licence does not exist in current law, the regulations should be amended to be more practical and should take into consideration the fact that the eyesight problems of glasses or contact lens wearers may be rectified by technology nowadays.	Road Regulations, Article 63, Clause 4
4. As for those drivers in certain age-brackets who have not yet renewed their driver's licences before the due time, the law requires them to pass the examination to validate their licences. In reality, except that they have gone to the next age-bracket, they are normally allowed to renew their licences by merely paying overdue renewal fees and providing health certificates. Therefore, it is necessary to reconsider the legal standpoints and to clearly stipulate the requirements for renewal and the penalties for breach of regulations at the time of law amendment.	Road Regulations, Article 74, Clause 7
5. The current regulations stipulate that "administrative and technical staff of foreign envoy" or "drivers employed by mainland organizations" are issued special driving permits/licences. Regarding the requests from some air companies, institutes and public institutions from the mainland to have the regulations extended to their staff who drive in Macao (non-Macao driver's licence holders), it is necessary to amend the law to regulate	Road Regulations, Article 72 and Decree-Law No. 67/84/M on 30 June
6. The current law only requires an institute applying for a special driver's licence to promise to monitor its driver's behaviour, which may not exert efficient supervision. At the time of law amendment, it shall take into account factors such as criteria for issuing a special licence, legal consequences for violators of the traffic regulations and for the institutes they belong to.	Decree-Law No. 67/84/M on 30 June
7. At present, there is no law regulating the driving lessons of the Public Security Force. The lessons should be regulated in order to ensure the quality of the trainers.	Road Regulations, Article 76, Clause 1
8. Concerning the examination of the specifications of imported vehicles, the current practice is that a department conducts preliminary screening when a vehicle enters into Macao, and then another department carries out a detailed examination when registering the vehicle. Since coordination problems between departments are likely to occur in the process and may result in importing substandard vehicles to Macao, the mechanism should be reviewed.	Law No.7/2003, Article 12; Road Regulations, Article 49, Clause 1 and Article 51, Clause 1

Abstract of the problems	Relevant laws
9. According to the current law, the registration requirements vary with the country of origin of the vehicles (from Portugal, China or other places). Such practice may give people the impression of “favouring one over the other”. Therefore, the relevant article should be deleted and the registration requirements should be consistent.	Road Regulations, Article 52, Clause 1
10. At present, new imported vehicles must undergo a process of auto-brand-model examination. Since the special committee is only in charge of document checking and the vehicle dealers can actually modify some data of the certificate of origin, putting the credibility of the procedure in doubt, the mechanism should be reviewed.	The Regulations of Approval of Model and Brand of Motorized Vehicles published in the Official Bulletin of Macao, Series II, No.5, 3 <sup>rd</sup> February 1999
11. The current law requires applicants for importing old/used industrial machines to provide quality certificates issued by the country of origin. However, the requirement can hardly be fulfilled and, in practice, the authority accepts applicants’ declarations instead. A clarification is imperative at the time of law amendment.	Edict, Article 1, Clause 2d, 219/98/M, 19 <sup>th</sup> October
12. The current law stipulates that luminosity of a car’s front light shall not be “dazzling”, but lacks a judging standard that ought to be clearly defined to avoid controversies.	The Road Regulations, Articles 27 and 28
13. The current law stipulates that luminosity of a car’s glass shall be of achromatic colour or completely colourless, but lacks a judging standard that ought to be clearly defined to avoid controversies.	The Road Regulations, Articles 32 and 33
14. There is no mechanism for re-examining the noise level of vehicle engines in the current law. The citizens who are unsatisfied with the examination results may doubt the impartiality of the law enforcement agent. Therefore, the current noise-measuring mechanism should be further improved.	Article 11 of The Regulations of Inspection and Regulation to Fix the Various Specifications of Motorized Vehicles published in the Official Bulletin of Macao, Series I, No.10, 9 <sup>th</sup> March 1994
15. Many coaches in Macao are equipped with an entrance door on the right side. However, by law they must park on the left side of a road or on a footpath. In that way, the on-off passengers are exposed to danger, which requires a study of the problem.	The Road Regulations, Article 32
16. If a driver is caught without a valid insurance, he or she is required to show the certificate within a limited period of time. However, the Road Code and the Legal Regime of the Compulsory Insurance of the Civic Responsibility of the Vehicles stipulate the period of time to be “5 days” and “8 days” respectively. Based on the principle of “special law derogates general law”, “8 days” should be the criterion. Therefore, the Road Code should be amended to avoid confusion.	The Road Code, Article 78 and Decree-Law, no. 57/94/M, Article 40, 28 <sup>th</sup> November
17. Since some drivers’ original registration cards have to be kept with the bank for their mortgage, they are allowed to show the “certified copy” when being inspected. The practice lacks legal basis and should be considered at the time of law amendment.	The Road Code, Article 56, Clause 2

Abstract of problems	Relevant laws
18. In case of a fatal traffic accident, the current law requires the troublemaker to take an alcohol-test, yet the time of testing is not specified. Considering that timing of testing is a vital factor in evidence collection and that some possibilities may affect its effectiveness (such as the driver's health problems or the driver's deliberate interruption of the alcohol-test), the testing mechanism should be improved.	The Road Code, Articles 93 and 94
19. The equipment used to examine and determine the quantity of exhaled alcohol has not been standardized, and the tests for anaesthetics and psychotic drugs have not been institutionalized either. These issues should be considered at the time of law amendment.	The Road Code, Article 68 and Article 95, Item a and Edict, Article 8, Clause 1, 274/95/M, 16 <sup>th</sup> October
20. The current law cannot effectively impel the law-breakers to pay the fines before the vehicle is transferred, especially when the driver's address and phone number are changed, posing difficulties for the law enforcement agency to advise the driver. The problem should be considered at the time of law amendment.	—
21. When the court has "disqualified" a driver, the law enforcement agency will not inform the offender until it receives a formal notice from the court. Then the driver's certificate or licence can be withdrawn or detained (if it has not been previously detained). Since it requires coordination between the court and the law enforcement agency and problems may occur during the follow-up procedure, some drivers who were "disqualified" years ago had not been actually penalized yet. It is necessary to review the mechanism.	The Road Code, Articles 86 and 90
22. Regarding the detainment of a driver's licence, the current law describes that "a law enforcement officer may detain the driver's licence". It may give people a wrong impression that the detainment is subject to a law enforcement officer's free will (discretionary power). The way of expression should be adjusted.	The Road Code, Article 89
23. As there are many bicycles on the road, which may affect traffic safety, stipulations on bicycle riding should be in place.	—
24. Since electric bicycles do not meet legal requirements and thus cannot pass the model-brand examinations, in principle they should not be allowed on the road. However, in reality these engines can easily be dismantled and replaced, making it difficult for the supervisory authority to determine the fact and enforce the law. Therefore, this issue should be regulated.	—

### *5.1.2 Help and Consultation*

In 2005, the CCAC recorded 608 cases for help and consultation, a decline of 5.7% compared to that of the previous year. In some particular areas, the number decreased sharply. For example, concerning public procurement, there were 21 cases compared to 38 cases in 2004, a decrease of 45%; its overall proportion also declined to 3.5% in 2005 compared to 6% in 2004. The decline may be attributed to the following reasons: In 2004, the Guidelines for the Procurement and Acquisition of Public Goods and Services was promulgated, so many departments and public servants consulted with the CCAC about their relations with the citizens and with the suppliers. Up to 2005, the “Guidelines” had been publicized widely, the individual departments/institutions had generally established and improved their internal procurement systems, and the procedures had also become more transparent to the public. These factors all contributed to the decline in the number of cases for help and consultation in related areas.

However, in 2005 cases for help and consultation concerning the legal system governing public services and the Guidelines on Professional Ethics and Conduct of Public Servants accounted for about 40% of the overall cases, which doubled that in 2004. The phenomenon resembled the initial period when the Guidelines for the Procurement and Acquisition of Public Goods and Services was publicized, causing an increased number of consultations in that area. This reflected the fact that both departments and public servants normally consult more with the CCAC when formulating internal code of conduct and upholding honourable practices.



Table 20  
Classification of matters appealing for help and consultation in ombudsman area in 2005

Matters	Numbers
Legal system governing public services (staff rights and interests, recruitment, discipline and declaration of incomes and properties)	148
Guidelines on the Professional Ethics and Conduct of Public Servants	93
Municipal affairs	46
Disputes between employers and employees	33
Traffic offences	32
Illegal constructions	26
Public procurement	21
Information supply	14
Legal consultation	11
Medical and health matters	8
Tax affairs	7
Illegal labour	6
Economic and social housing	5
Others	61
Outside the competence of the CCAC (private sector and lawsuits)	97
Total	608

## 5.2 Research and Examinations

### 5.2.1 Research and Examinations of Systems

In 2005, the CCAC completed two research projects – “The Issues on the Prosecution Procedure and Sanction Procedure Against Administrative Infringements” and “The System of Serving Exclusively the Public Interest and Not Engaging in Incompatible Activities for Public Servants”. The main contents of the projects are as follows:

#### **The Issues on the Prosecution Procedure and Sanction Procedure Against Administrative Infringement**

In recent years, there have been many problems relating to the prosecution procedure



and sanction procedure against administrative infringements, discovered from the complaints the CCAC received and the joint investigations with other government departments. Issues include different legal interpretations of the same law articles by different departments, prolonged procedures and lack of practicability in some parts of the procedures, etc. In the meantime, the promulgation of the General Regulations for Public Areas and other separate laws provided some alternate punishments and preventive measures for the current system which is mainly regulated by the General Regime of the Administrative Illegality and Respective Procedure in terms of administrative infringement. However, since such measurements may have some effect on people's rights and freedom, they should be properly regulated.

To this end, the CCAC started reviewing the "Issues on the Prosecution Procedure and Sanction Procedure Against Administrative Infringements" in 2005, including making suggestions on the amendment of the General Regime of the Administrative Illegality and Respective Procedure (hereinafter "General Regime"). The main conclusions of the report are as follows:

#### I - Subsidiary applications of the law

The General Regime currently adopts a "multi-application" approach (subsidiary applications of the Code of Administrative Procedure and the general principles of Penal Code and Penal Procedure Code) which requires an interpretation of the applied article. The practice not only prolongs the handling process, but also leads to different explanations of the same item by different departments, causing the law enforcement authority to lose consistent criteria and hurt its credibility. This should be taken into account when amending the General Regime.

#### II - Substantial System

##### (1) The concept of "administrative infringement"

The definition of "administrative infringement" in the General Regime is not different from the concept of "contravention" defined in the Penal Code. The infringed subject in both laws are "preventive provisions of a law or regulation", which makes it difficult to differentiate between the one of criminal nature and the one of non-criminal nature. Therefore, if the system of coexistence of the two mechanisms is to be maintained, it will be necessary to redefine the concept of "administrative infringement" through amending the General Regime.

## (2) The punishment for administrative infringement

### a) Principal punishment

1. In the General Regime, the principal punishment for an “administrative infringement” is to impose a fine. However, there are separate laws composed of non-fine principal punishment. Therefore, it is necessary in the General Regime to clarify different types of principal punishment, or to stipulate other types of principal punishment in separate laws apart from imposing a fine. In this way, contradictions between separate laws (especially those in the form of administrative regulations and not of a legislative nature) and the General Regime may be avoided.

2. The conditions and limitations of principal punishment should be stipulated in the General Regime, which may be used as subsidiary applications when there is a lack of provisions in the separate laws. In addition, an imperative provision on the confinement of principal punishment is also required, so as to prevent the law enforcement agencies from having too extensive discretionary power and using inconsistent criteria when imposing punishment.

3. For administrative infringements with punishment that are not applied according to the seriousness of the infringement, a fixed-fine approach may be adopted to improve the administrative efficiency. Therefore, “prescribed fixed fines” should be introduced in the General Regime to distinguish it from “prescribed fines with top-bottom limits”.

4. For administrative infringements that may be punished by judging their faults and legal interests protected, it is necessary to introduce a classification of different “infringement behaviours” into the General Regime, such as “general infringements”, “serious infringements” and “very serious infringements” and so on; and the corresponding punishment (including accessory punishment) of different categories and degrees may also be stipulated. Meanwhile, as for administrative infringements that may be punished by non-fixed fines, relevant criminal provisions may be taken for reference, so as to establish general principles and rules for what concrete fines to apply and how to reduce or increase the punishment. In a way, these principles may be applied as supplements to cases that are not stipulated in separate laws.

### b) Accessory punishment

1. It is appropriate in the General Regime to stipulate different types of accessory pun-

ishment that may be adopted by different administrative regulations.

2. For the accessory punishment that constrain an offender's rights and freedom directly and indirectly, it is necessary in the General Regime to clarify their preconditions and limitations to avoid any inappropriate provisions. To this end, an amendment of Article 6, Item 3 (concerning accessory punishment) in the General Regime may be considered.

3. As some of the accessory punishment such as "prohibiting any business practices", "closing down establishments permanently" are not very effective in practice, it may be ideal to establish a mechanism targeting establishments confined by the administrative licence system and enabling the public to gain access to their records of administrative infringements and of the principal and accessory punishment imposed. Furthermore, to deal with the issues of changes of name or transfers of ownership/operatorship of establishments, the individuals concerned are required to submit a declaration or agreement of accountability to the authority.

c). Recurrence of infringements

1. Although cases of "recommitted offender", "repeated offender" and "continuing offender" are once in a while regulated in the current law, they have not yet been clearly defined. Consequently, some offenders have successfully escaped severe punishments due to the undefined "quantity" of offences. Therefore, clearly classified punishment is required in the General Regime so as to be able to quantify the actual offences.

2. If lawmakers deem a "continuing offender" system necessary for accountability of administrative infringements, it is appropriate to confine its applicability to those infringements with non-fixed fines as principal punishment, since the amount of forfeit is determined by the nature of infringements. Meanwhile, the preconditions of a "continuing offender" should also be clearly defined.

3. The preconditions to confirm a "recidivist" are defined differently by different separate laws. The practice may be altered when amending the General Regime in which either clarified provisions are stipulated to maintain the practice, or a general principle is enacted to define a "recidivist" as an offender who has perpetrated the same infringement within a year, meanwhile leaving the possibility for separate laws to define particular intervals within specified terms.

4. There are currently different types of punishment for a “recidivist” in different separate laws. Therefore, it is necessary to analyze carefully Article 6 Item 2 in the General Regime (a general provision of “recidivist”); it may be maintained or stipulated as a general principle to guide its top-bottom limits. An accessory punishment may be increased for each repeated offence.

5. Though it is stated in Article 8 of the General Regime the principle of “no one should be punished twice for the same cause”, it may also be mandatory to clarify that the principle only applies to cases where the legal interests enacted by the criminal law and the administrative regulations are the same; namely, an offence of a criminal law or misdemeanour absorbs the offence of an administrative law, in which a criminal offence and an administrative infringement are not essentially overlapped. Therefore, an article should be added to the General Regime postulating that “unless the protected legal interests are different”.

6. For plural or multiple offences codified by several administrative regulations (enforced by the same administrative institution), there are not yet any provisions clarifying the relevant legal consequences in the General Regime. It is therefore necessary to introduce a general principle to regulate the “joinder of punishment for plural offences committed by one person” (joinder of fines for plural offences) and the confinements of the unique concurrent punishment.

#### d) Intervals within procedural period of prescription

1. It should stipulate the intervals within procedural period of prescription in the General Regime to make good the flaw of the current statute.

2. Considering illegal constructions have been long-term tricky problems, an effective calculating mechanism should be ensured by the General Regime, in particular the “starting day” ought to be clearly defined. Moreover, the duties of owners of the real properties and places may also be taken into account.

### III-Procedural System

1. Considering the difficulties administrative authorities encountered in determining suspects’ identities and preventing consecutive infringements, especially the ineffectiveness of searching and preserving evidence, the General Regime should give the detectors, examin-

ers and investigators the law enforcement power, including some temporary or preservative measures. The detailed implementations may be defined by separate laws.

2. Given the complete nature of a general statute, the applicable temporary or preservative measures should be exemplified, stipulating punishments for the crime of disobedience if the measures are not observed so as to make the statute more compelling.

3. As some witnesses of the authority are able to instantly identify the infringers, a mechanism of "Prosecution Record" should be introduced into the General Regime, which enables the sanction procedure to be launched in time. Subsequently, the infringers will be informed with the accusation and advice note, so that defence of accusation or direct punishment (i.e. paying a fine) can be carried out, thus the overall procedure will be accelerated.

4. Classifications of the contents of the statement and prosecution record should be clearly prescribed in the General Regime.

5. For the administrative infringements that occur concurrently or are interrelated, even if not committed by the same person but is part of the responsibility of the same department, it should be stipulated in the General Regime the possibility of taking only one statement to make the process smoother.

6. In the General Regime, cooperation should be made a legalized obligation should be made to prevent the individuals concerned from refusing to provide data (such as an infringer's identification data) to hamper the process. Criminal liabilities should be stipulated for any breach of the obligation.

7. As the current noticing mechanism is utterly time-consuming, improvements can be done on two fronts. On the one hand, it is appropriate to set up a strict system where notices are delivered in person and by mail and to identify the circumstances where the fact of delivery can be confirmed or be inferred to exist. On the other hand, public notices and non-accusation notices should also be regulated. In addition, if it is feasible for the police authorities stationed at the border checkpoint to issue notices, a relevant information exchange mechanism should be in place.

8. The General Regime should unequivocally prescribe how the stakeholders' rights to plea to charges and to defend at hearings can be exercised (for example, it may stipulate that

pleas and defences at hearings ought to be carried out in written form while the agency in charge of the investigation may decide, according to specific situations, that the procedures be done verbally, provided that the statements are recorded accordingly. Also, it may stipulate that pleas and defences at hearings can only be in written form, except for the cases where the agency in charge of the investigation is allowed by separate laws to carry out the procedures in verbal form). In addition, it may also stipulate that if the stakeholders can provide justifiable reasons for absence, a written hearing should be allowed to be postponed.

9.Despite the stipulations that certain legal obligations ought to be fulfilled within a statutory period, in reality it is impractical for the law enforcement agencies to conduct hearings for a huge number of people and it may jeopardize the social interests that the law aims to protect by setting the obligations. Therefore, mainstream academic opinions and judicial interpretations all suggest that the hearing procedures be nullified. However, the General Regime should stipulate and clarify that such nullification only applies to the fixed-punishment cases prescribed by law, while for the non-fixed-punishment cases the authorities have to decide on punishment in accordance with the offences committed and so the current hearing procedures may not be nullified.

10.Although the mobility of non-resident offenders is high, their right to hearing should be protected. As for those non-resident offenders who are unwilling to pay fines or bails instantly, the provision of “offenders are strictly prohibited to enter the SAR until their fines are paid” in the current statute should remain. To this end, it should be stipulated that the relevant authorities ought to inform the police agencies stationed at the border checkpoints in a timely manner. In addition, non-resident offenders should not be allowed to provide community services in lieu of fines.

#### IV-Legislative Procedure

It is appropriate to enact the current General Regime in the form of “law”. Currently, there are many separate laws (some of them in the form of “law”, others by way of administrative regulations) stipulating other kinds of principal punishments apart from fines as well as a series of accessory punishments affecting offenders’ rights and freedom. Some regulations even enacted systems of incriminating and fining minors that are different from what is stipulated in the current civil and criminal laws. The practice has gone beyond the framework of the General Regime. Therefore, the regulations should be enacted in the form of “law” or



the amendment of the General Regime should follow a legislative procedure, so that a proper framework can be in place to avoid any inappropriateness in defining people's rights and freedom. As for implementation, administrative regulations may formulate rules of punishment based on the type and classification of the offence.

**“The System of Serving Exclusively the Public Interest and Not Engaging in Incompatible Activities of Public Servants”**

Concerning the current legal system of Macao public servants' integrity, the CCAC accomplished the Report on Avoiding Conflict of Interests in 2003, in which the system of exclusiveness of public servants (namely that public servants can only be exclusively employed by the authority and cannot moonlight except in some special cases) was reviewed. The system is essentially important for public servants to fulfill their missions in a fair and selfless manner as well as for the administrative authorities to protect their reputation.

In 2005, the CCAC promoted in full scale the “Guidelines on the Professional Ethics and Conduct of Public Servants” and required public departments/institutions to formulate their code of conduct. Meanwhile, opinions on the flaws in the current system of exclusiveness were also collected. In fact, the system does have deficiencies and provokes controversy. (For example, the definition of outside practice is neither clear nor practical, especially for those who engage in private practices without pay; inconsistent criteria exist for outside practices between public institutions and general departments/institutions; lack of provisions for reluctant participants in private practices, and so on.) Therefore, the CCAC started a research on “the System of Serving Exclusively the Public Interest and Not Engaging in Incompatible Activities of Public Servants” and proposed some suggestions for amendments to the General Principle for Civil Servants of Macao and the General Regulations Governing the Directors and Chiefs. The conclusions of the report are as follows:

1. Any administrative governance must be implemented through public servants who are entitled to execute and enforce the administrative powers. On the one hand, they can demand citizens or private entities to fulfill their legal duties for the sake of public interests, and can hold the offenders responsible. On the other, public servants can grant, confirm, terminate or cancel citizens' or private entities' special qualifications through examination and verification procedures.

2. Thus, the administrative authorities have the responsibility to ensure public servants'

professional ethics of fairness and selflessness.

3.Guided by such rationality, most of the countries and regions in the world have adopted the “system of exclusiveness ” to ensure that public servants’ integrity not be impaired by outside practices and to create a favourable environment for them to carry out their duties.

4.The system of exclusiveness for public servants established under Macao’s current law (including the General Regulations for Civil Servants, the General Regulations Governing the Directors and Chiefs and the specified personnel regulations of certain public institutions) has been implemented for more than ten years. Defects in the system have gradually emerged.

5.Regarding public servants’ involvement in outside practices with a private enterprise, “work without pay” may be less risky than “work with pay” in terms of “conflict of interest” and of violation of the principle of exclusiveness. However, the General Regulations for Civil Servants stipulate that every outside practice has to be applied for approval in advance, and the General Regulations Governing the Directors and Chiefs forbid any moonlighting activities. Treating “work with pay” and “work without pay” in such an indiscriminative way is undoubtedly too strict to the latter.

6.Moreover, although personnel at department head level generally have no rights to make final decisions nor do they know much about the government’s confidential data, they are treated as top-level personnel in terms of “work without pay” which is absolutely prohibited. The question about the necessity of placing such a strict restriction was raised.

7.In fact, as community activities in Macao are very popular, it is common for public servants to serve civil associations without pay. Whether this should be treated as “work without pay” has not yet been clarified by the current laws.

8.On the other hand, although the former High Commission Against Corruption and Administrative Illegality and the administrative authorities have elucidated “work without pay with private enterprises”, it is still impractical.

9.Being different from the Common Regime, some personnel regulations of public institutions impose no constraints even on leaders at management and decision-making level engaging in “work without pay” with private enterprises. The personnel are simply not required to apply for approval or make declaration.

10.In view of the practices of other countries and regions, their “systems of exclusive-

ness” generally do not require public servants to apply for approval in advance for their “work without pay”, while their private engagements are not allowed to have a conflict of interest with their current duties. However, the public servants are required to keep alert on any potential conflicts of interest and to consult their superiors whenever in doubt. Meanwhile, they also stipulate specific regulations of exclusiveness for public servants at various levels.

11. In fact, what the so-called “public servants shall not carry out outside practices” really means is that they shall not engage in activities that may contravene their public duties. In other words, any activities that may cast doubt on their integrity and harm the reputation of administrative authorities should be strictly forbidden.

12. Hence, for the public servants who engage in “work without pay” that has no conflict of interest with their duties, the administrative authorities should not impose too strict constraints.

13. On the contrary, the administrative authorities are obliged to remind public servants of their obligation of “not engaging in activities that may contravene their public duties”. Thus, the public servants will consider the possibility of “conflict of interest” with their public duties before taking any positions in private institutes or organizations outside their posts.

14. Deficiency still exists in the Common Regime regulating public servants working outside their duties. For example, some public servants engage in private practices not because they intend to do so but because they have inherited the business from their ancestors. The Common Regime does not stipulate any special regulations for this kind of case. Handling such cases with the mechanism of application for approval (for general public servants) and the mechanism of prohibition (for directors and chiefs) is unreasonable. Moreover, the administrative authorities currently follow three criteria when examining the applications: 1) the time involved in private practices not conflicting with the working hours of their public position, 2) the private practices not compromising the duty of impartiality, 3) the private practices not being prohibited by special laws. These three preconditions are not adequate to ensure that the private practices do not contravene the public servants’ duties. In fact, some other factors have not been taken into account, such as whether the outside practice may severely reduce the public servant’s rest time, whether the outside practice is so high-paying that it even attracts the public servant’s full attention, and how the public servant’s past job performance was, etc.

15. In addition, public servants are permitted to engage in professional training activities or in teaching activities not exceeding 11 hours per week. When granting permission, the administrative authorities should consider factors like the influence of such activities on the effectiveness of their current duties. There is no clear regulation in the Common Regime.

16. In view of other countries or regions with relatively advanced mechanisms of professional ethics for public servants, the factors used to judge the applications for outside practices include: whether the practices will affect the public servant's current job efficiency and how the public servant's job performance is, etc. Besides, the mechanisms also allow the departments to set up other judging criteria and standards in accordance with their specific circumstances.

17. Based on these, the following suggestions were made, aiming to establish an honest and efficient team of public servants and a legal system<sup>1</sup> that can safeguard public servants' professional ethics.

18. In the long run, the administrative authorities should amend<sup>2</sup> the "system of exclusiveness" prescribed by the General Principles for Civil Servants and the General Regulations Governing the Directors and Chiefs in the following areas:

a) Concerning general public servants working with private enterprises, it should distinguish between "work with pay" and "work without pay". For the former, while the application-approval mechanism may be maintained, additional conditions for approval may also be considered and formulated by individual departments, in order to ensure public servants' current duties will not be impaired by their outside practices<sup>3</sup>. For the latter, a more relaxed measure may be adopted; they may not need to apply for permission beforehand, nevertheless, they should be alert to any potential conflicts of interest and should consult their superiors whenever in doubt.

<sup>1</sup> In fact, in the Government Financial Policy Report 2006, p. 42, it is pointed out that "By perfecting the system, promotion, education, supervision and other various channels and ways, we will continuously promote the building of clean administration, in cooperation with the auditing work, especially in an effort to make public servants more aware of serving the public, understanding and abiding by the law as well as making better use of public resources through vocational training ..."

<sup>2</sup> In fact, amending the General Regulations Governing the Directors and Chiefs is mentioned in the Government Policy 2006 (ref. the Government Financial Policy Report 2006 in the Area of Administration and Justice, p. 1041)

<sup>3</sup> In the same way, concerning the practices that public servants are allowed by the administrative authorities to undertake vocational training and engage in teaching activities no more than 11 hours per week, judging criteria should be set up to prevent the activities from affecting the public servant's current duties.

b) Concerning the engagement of directors and chiefs in private practices, it may be appropriate to maintain the mechanism of “absolute prohibition” for “work with pay”. As for “work without pay”, it may be appropriate to require the personnel to make a declaration in advance. Moreover, it should be stipulated that in case the director or chief is found to have engaged in a private practice constituting a conflict of interest with his/her official duties, his or her contract would be terminated without any compensation.

c) If the mechanism of “absolute prohibition” is to be maintained for outside practices with or without pay, it is appropriate to take the regulations in other countries or regions for reference and to distinguish between leaders with and leaders without decision-making power. For the latter, “absolute prohibition” may not be necessary for their engagement in private practices without pay.

d) It should be unequivocally stipulated that all public servants are prohibited from undertaking any activities that may intervene with their current duties, especially when the activities may put their integrity in doubt and damage the reputation of administrative authorities. The departments may provide supplementary clarifications on what activities might pose potential conflicts of interest, based upon the functions of the departments and work allocations of the staff. Furthermore, before engaging in any outside practices, public servants at all levels should also be required to proactively examine whether potential conflicts of interest exist and to consult their superiors when in doubt.

e) For public servants who do not intentionally engage in private practices, especially in situations of business inherited from ancestors, a transitional measure should be in place.

19. Concerning the special systems of certain public departments or entities, while their provisions permit all personnel, including directors and chiefs, to freely engage in any private practices without pay, it is still appropriate to establish a mechanism of self-examination and declaration to prevent conflicts of interest.

20. Before amending the laws, the administrative authorities should issue guidelines to clarify the meaning of “not engaging in outside (contravening) activities”, which include activities that may compromise the impartiality of public servants or impair the reputation of administrative authorities. The public servants should be reminded to stay alert to potential conflicts of interest and to consult their superiors when in doubt. In addition, when joining the public services, all public servants should be required to sign a “declaration of non-contraven-

tion” as a reinforced reminder.

21. During the transitional period before the law is amended, if the administrative authorities choose not to adopt the mechanisms of “application for approval” and “absolute prohibition” stipulated by the Common Regime when treating private practices without pay, they should issue guidelines as stated in previous paragraphs and clarify their standpoints to ensure the public servants’ understanding of their obligation and to remove their doubts about private practices.

### *5.2.2 Research and Examinations of Operations*

In 2005, the CCAC and the Civic and Municipal Affairs Bureau carried out two research projects on the units under the Department of Vehicles and Transportation, as well as followed up on the implementation of improvement measures with the Health Bureau and the Macao Trade and Investment Promotion Institute.

#### *The Civic and Municipal Affairs Bureau*

A. A research was conducted on the operations of the Vehicle Inspection Centre of Division of Transportation under Department of Vehicles and Transportation. The following improvement measures were agreed on:

1. Facilities and equipments: to improve conditions for confidentiality of case files, security and order of facilities, labeling of facilities and usage of queuing status indicators.

2. Public reception and information supply: to install more directional signs, to ensure the receptionists properly identify themselves, to ensure the accuracy of information provided to the public, and to further promote the booking service of the centre for vehicle inspections.

3. Complaint mechanism: to establish a complaint recording mechanism and relevant statistics database as references for improving operations; to adopt adequate measures to ensure the confidentiality of complainants’ data and internal procedures; to ensure the staff being complained about be informed of the complaint handling results.

4. To improve the filing of internal documents.

5. Queuing system: to standardize the inspection hours for vehicles; to ensure punctuality



for starting inspections; to review and improve the current sortition system for inspection.

6. For inspections of vehicles applying for registration, to randomly select an inspector-in-charge by computer on a daily basis.

7. Inspection procedure:

7.1 In case the vehicle is photographed, to ensure that the owner or the deputy sign on the photo(s) as confirmation.

7.2 To consider setting up a team for examining parts to carry out inspections by item so as to accelerate the process.

7.3 If there is no light transmission marked on the glass of the vehicle, to ensure taking the measurement and fill in the “vehicle glass light transmission” or given reference number and have it signed by the owner or the deputy.

7.4 To ensure that the examination checklists of all vehicles be signed not only by the inspector, but also by the owner or the deputy as a confirmation of the examination results.

7.5 To improve the printing quality of the current checklists.

7.6 To ensure that the inspectors properly record all the inspected items.

8. Concerning the practice that vehicles failing to undertake compulsory annual inspection within prescribed periods are allowed a grace period of 10 days to provide explanation, to consider stipulating it unequivocally when amending the Road Regulations.

9. Concerning the flaws or irregularities discovered during the inspection that are irrelevant to the safety conditions of a vehicle, to ensure setting a proper deadline according to law for necessary repair and re-examination; to keep the re-examination results properly in the record.

10. To amend the contents of the penalty notice, which is issued when the vehicle features do not match those recorded on the registration card.

11. When amending the Road Regulations, to conduct an integrated study on the necessity of coexistence of both “codified right” and “non-codified right” registration cancellation mechanisms, so as to ensure that the legislative intention is achieved.

12. For vehicles that are found to be unusable or fail to pass the examination during the inspection, to ensure that the “substitute registration card” include a validity date.

13. Regarding some provisions in the Regulations of Inspection and Regulation to Fix the Various Specifications of Motorized Vehicles that are hard to be implemented (i.e. the compulsory spare tyre must show three-fourth of its width; otherwise be disqualified), to review and amend the provisions properly.

14. To consider the possibility of establishing a special mechanism to provide suggestions on certain complicated inspections.

15. To review and improve the current inspection forms.

16. Concerning the special vehicle inspections requested by the Public Security Police Force, to ensure that the Police Force is well informed of the results.

17. To consider setting up a special team to carry out evaluations on the vehicles requested by the court, and to provide grounds for the evaluations in the reports.

18. To improve the examination procedure for vehicles involved in accidents, and to ensure that the inspectors-in-charge sign to confirm the inspection results.

19. To improve the test-driving procedures for taxis, and to ensure that the taxi drivers sign to confirm the test results.

20. To reinforce staff training on communication and conflict-handling skills, and to consider exchanging experience with counterpart departments in the vicinity.

B. The CCAC and the Civic and Municipal Affairs Bureau commenced a research project on the Division of Vehicle Authorization of Transportation Department of Vehicles and Transportation during the fourth quarter of the year. The CCAC personnel completed the initial phase of the research and gained an understanding of its actual operations.

## Health Bureau

The CCAC continuously followed up with the Health Bureau on the research commenced in 2001 on operations of the Department of Pharmaceutical Affairs, and the research commenced in 2003 on the regulations of personnel attendance records, duty scheduling, overtime and shift work subsidies, internal rules and guidelines, and mechanism and proce-

dures for public reception.

A. Department of Pharmaceutical Affairs: The qualifications and guidelines for pharmacies were formulated; the “agreed upon remedy” was also included.

B. The Health Bureau’s staff attendance records, duty scheduling, overtime and shift work subsidies, internal rules and guidelines, and mechanism and procedures for public reception.

The improvements implemented in the past year are as follows:

#### Overall

1) By cooperating with Hong Kong Academy of Medicine, evaluations and training of medical staff members were strengthened.

2) Internal working regulations, including professional guidelines, were formulated.

3) The Regulations on Dealing with Salesmen Promoting Goods were finalized; Guidelines on the use of drug samples were drafted and opinions are being collected for preparation of the final version.

#### Supporting and Administrative Works

1) The electronic attendance recording system had been closely followed up by a task force in three stages and came into use in August 2005. The online authentication scheme for “doctor certificates” is in its initial exploration phase.

2) A study on the format of medical certificates, the usage guidelines and the issuing procedures was conducted.

3) By amending the payroll system, the computing programme for shift work subsidy calculation would be improved.

#### Emergency and Specialist Outpatient Departments of the S. Januario Hospital

1) Signs for the emergency and outpatient departments were gradually improved.

2) The roster programme for nurses in the emergency department, as an integrated part of the electronic attendance management system, was uniformly developed. The system also consists of the roster programming functions and emergency call confirming functions for the

personnel in all sections of the emergency departments.

#### Health Centre

1) The Regulations of Pharmacy Operation and the Guidelines for Dispensers in the Health Centre were formulated and included in the internal working regulations.

2) In Fai Chi Kei Health Centre, the electronic indication boards showing queuing status numbers were installed, which would be widely used in other health centres.

3) Complaints or suggestions that had been handled were being recorded in time and reported to the superiors regularly.

#### Macao Trade and Investment Promotion Institute

Following the promulgation of Administrative Regulation No. 3/2005 (amended the Residency Scheme for Investors, Managerial Personnel, Technical and Professional Qualification Holders), the CCAC followed up on the Guidelines on Application for Temporary Residency redrafted by the Macao Trade and Investment Promotion Institute and proposed suggestions on:

1. The establishment of a real estate evaluation commission and its operational mechanism, especially the set-up of a recusal procedure to prevent potential conflicts of interest.

2. The duration for examining and approving applications for investment residency.

3. The establishment of an effective mechanism for examining the educational background of investment residency applicants.

4. The preconditions to be met and the certificates to be submitted for family reunion involving de facto marriages.

5. The shelving and cancellation of procedures.

6. The submission of valid proof of real estate ownership for the initial and renewal applications for investment residency.

7. Concerning alteration of legal status, including changes of personal identity, Macao Trade and Investment Promotion should be informed of all the applications within a prescribed time.

### 5.3 Guidelines Formulated and Seminars/Workshops Held

#### *5.3.1 Promotion of Guidelines on the Professional Ethics and Conduct of Public Servants*

Promotion of the Guidelines on the Professional Ethics and Conduct of Public Servants was an important task for the CCAC in 2005. It aimed to enhance the public servants' integrity awareness and cultivate an ethical culture in public services.

Along with the promulgation of the Guidelines on the Professional Ethics and Conduct of Public Servants and Recommendations on the Formulation of Code of Conduct for Public Services and Institutions, the CCAC first set up a liaison mechanism to allow close and effective coordination with different government departments. Subsequently, the CCAC conducted a series of explanatory sessions on the two publications. Seminars entitled "Noble Character, Righteous Conduct" were implemented in two stages: the initial stage was in the first half of the year and the audiences included directors and chiefs of the departments/institutions as well as staff members of those departments closely related to citizens' livelihood. The second stage was in the period of October-December and the audiences were staff members from other departments. In total, there were 122 seminars (including 8 seminars in Portuguese) held for 64 departments, with 18,410 participants of all levels.

In the seminars, the CCAC exemplified the professional ethics and conduct of public servants required by the current law through short films and real-life work examples, and views were exchanged among participants. The CCAC intended to help the public servants realize the importance of professional ethics as well as to assist different departments in formulating their internal guidelines and strengthening their personnel management.



The Chief Executive Edmund Ho, Secretary for Administration and Justice Florida Chan and the Commissioner Cheong U presided over the Launching Ceremony for the Guidelines on the Professional Ethics and Conduct of Public Servants



The Chief Executive and chiefs of cabinets and directors of bureaus



Table 21

Statistics on the number of participants in the seminars of “Noble Character, Righteous Conduct”

Participants / Languages	Number of sessions	Number of participants
Directors and chiefs (Cantonese)	13	869
Directors and chiefs (Portuguese)	1	102
General public servants (Cantonese)	101	16,401
General public servants (Portuguese)	7	1,038
<b>Total</b>	<b>122</b>	<b>18,410</b>



Seminars for directors and chiefs



Seminars for general public servants



Suggestions, guidelines and pamphlets concerning the Guidelines on the Professional Ethics and Conduct of Public Servants

During the promotion, the CCAC responded to many enquiries by public servants. The most popular questions were then compiled in question-answer format and were published on the CCAC website for public servants to consult.

During the second half of the year, the CCAC followed up with different departments on the formulation of their internal guidelines. By the end of 2005, the progress of 55 public departments/institutions was as follows:

- the guidelines were formulated (22);
- the formulation was in process (17);
- while the formulation was in process, the Guidelines on the Professional Ethics and Conduct of Public Servants issued by the CCAC were adopted for the transitional period (2);
- The Guidelines on the Professional Ethics and Conduct of Public Servants issued by the CCAC were directly adopted (12);
- The Guidelines on the Professional Ethics and Conduct of Public Servants issued by the CCAC were adopted and supplemented with additional regulations (2).

During the above follow-up work, the CCAC not only paid attention to the progress of formulation of different departments but also provided technical support and suggestions and clarified the doubts occurring in the process, so that the guidelines could be more relevant to the specific needs of the departments and be an effective tool for personnel integrity management. Meanwhile, the CCAC also emphasized the concrete implementation measures of the guidelines, especially the necessity for the departments to establish internal communication mechanisms, such as organizing seminars and setting up consultation and feedback systems, etc. The CCAC believes that constant and effective internal communication mechanisms are of significance for strengthening the public servants' integrity awareness.

During the promotion, the CCAC was fully supported by different departments and institutions. They established long-term liaison relations with the CCAC, assisted in distributing the Guidelines on the Professional Ethics and Conduct of Public Servants to their staff members, required personnel at all levels to attend the CCAC seminars and gave the formulation of their internal guidelines high priority. Even though some departments of relatively simple structures may not have an urgent need for separate internal guidelines, they actively adopted

the guidelines published by the CCAC as their internal rules. This support and cooperation reflected the great emphasis attached to integrity cultivation by different departments, which were devoted to establishing a mechanism for effective management in the long run.

### *5.3.2 Other Specific Lectures and Workshops*

Apart from organizing the seminars “Noble Character, Righteous Conduct” during the promotion of the Guidelines on the Professional Ethics and Conduct of Public Servants, the CCAC also, at the request of the departments/institutions, conducted seminars to explain the Guidelines on the Procurement and Acquisition of Public Goods and Services, aiming to raise the public servants’ awareness of “clean procurement” and to minimize the risk of breaching the law. Furthermore, the CCAC kept working with the Administrative and Public Service Bureau by sending representatives to speak at the “Public Procurement Workshops” that the Bureau organized for different departments/institutions.

## *5.4 Training and Exchanges*

Apart from the routine courses organized by the Macao Government for middle- and senior-level public servants, in 2005 the CCAC also sent investigators of the Ombudsman Bureau to participate in some training programmes organized by the police departments or the anti-corruption agencies in other places, including a short training course on investigation knowledge and techniques organized by the Chinese People’s Public Security University and a commanding course for chief investigation officers organized by the Hong Kong ICAC.

In 2005, the CCAC visited the ombudsman agencies in several countries and received leaders or representatives from the Ministry of Supervision of the People’s Republic of China and from the ombudsman agencies in other Asian countries/regions (see Chapter VI, 6.4.2). In addition, the CCAC also assisted the Ministry of Supervision of the People’s Republic of China in their personnel training. These activities allowed the staff members of the Ombudsman Bureau to broaden their horizons, to learn from others’ experiences, and to gain new ideas for future work.





# **CHAPTER VI**

## **COMMUNITY RELATIONS**



## CHAPTER VI - COMMUNITY RELATIONS

In 2005, facing the social development, especially the arduous task of anti-electoral-corruption in the Legislative Assembly Election (ref. Ch. 4.3.1), the CCAC launched systematic and sustainable promotions, as well as educational and community tasks. Apart from the accentuated anti-electoral corruption campaign, the CCAC continued developing the promotional corruption-free programme for public servants and the “Education Programme on Honesty for Teenagers”, exploring community relations, providing consultancy for the public, as well as collecting various opinions and suggestions as its external relations had been further established. All of this work laid a foundation to build Macao as a corruption-free society.

### 6.1 Integrity Education

In 2005, the CCAC continuously provided integrity education for public servants, students, staff of supervised departments and the public. Since anti-electoral-corruption was emphasized and promotions of “Noble character, Righteous conduct” for public servants were widely publicized, the number of participants in the seminars organized by the CCAC increased. There were 371 sessions of various seminars and 33,823 participants, reaching a record high.

Table 22  
Statistics on seminars held in 2000-2005

Audiences	Number of sessions						Number of participants					
	2000	2001	2002	2003	2004	2005	2000	2001	2002	2003	2004	2005
Public servants	23	94	132	132	51	173	855	5,209	7,435	11,385	1,752	20,228
Students/trainees	10	21	40	50	301	175	886	5,386	3,271	6,105	27,483	12,430
Teachers	—	—	—	24	—	—	—	—	—	810	—	—
Members of associations/ communities	14	19	10	6	22	17	1,678	1,736	493	190	890	876
Credit institutions	6	4	2	6	8	3	220	132	55	316	538	135
Public services/ private enterprises	—	2	1	—	3	3	—	70	25	—	105	154
<b>Total</b>	53	140	185	218	385	371	3,639	12,533	11,279	18,806	30,768	33,823

### *6.1.1 Seminars on “Honesty and Integrity in the Interests of the Public” and other Topics*

In 2005, the CCAC undertook a series of promotions for Guidelines on the Professional Ethics and Conduct of Public Servants; in total there were 122 seminars for 64 departments with 18,410 participants (ref. Ch.5.3.1).

Since July 2001, the CCAC assisted the Public Administration and Civil Service Bureau in integrating the seminars of “Honesty and Integrity in the Interests of the Public” with its “Basic Training Course for Public Servants”. In 2005, there were 30 sessions held by the CCAC including 18 in Cantonese and 12 in Portuguese with 880 participants.



Seminars held for public servants

In addition, the CCAC provided public servants with seminars on other topics, totaling 21 sessions with 938 participants, including seminars on “Public Procurement”, “Declaration of Incomes and Properties”, “Occupational Crimes ” and so on.

Table 23  
Statistics on classified seminars for public servants in 2005

Subjects	Departments	Participants	Number of sessions	Number of participants
Seminars on "Noble Character, Righteous Conduct"	All departments	Staff members	122	18,410
Basic Training Course for Public Servants	All departments	Staff members	30	880
Public procurement	Civic and Municipal Affairs Bureau	Staff members	4	240
Declaration of Incomes and Properties	Macao Customs Service	Noviciates	1	30
	Legal and Judicial Training Centre	Noviciates of Judicial office	1	40
Honesty and Integrity in the Interests of the Public	Fire Services Bureau	Fire-fighters in the front-line	3	73
	Macao Customs Service	Noviciates	3	90
	Academy of Public Security Forces	Students of the 3 <sup>rd</sup> training course	1	98
	University of Macau	Staff members	1	35
	Judiciary Police	investigators on noviceship of the 10th course	2	34
	Civic and Municipal Affairs Bureau	New recruits	2	80
	Legal and Judicial Training Centre	Noviciates of Judicial office	1	100
	Science and Technology Development Fund	Staff members	1	18
Occupational crimes	Legal and Judicial Training Centre	Noviciates of Judicial office	1	100
<b>Total</b>			<b>173</b>	<b>20,228</b>

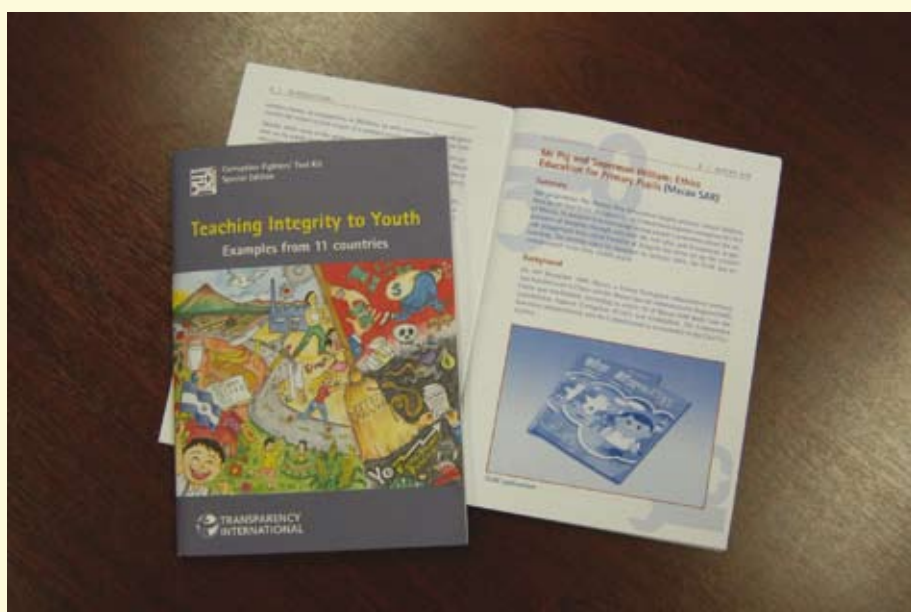
### 6.1.2 "New Generation of Integrity; An Education Programme on Honesty for Primary Students"

In 2005, the CCAC continued its "New Generation of Integrity; an Education Programme on Honesty for Primary Students", delivering the honesty and integrity message to the students in a vivid and flexible way using multimedia means, such as puppet shows, computer cartoons and short-films. Activities were normally carried out in the "Paradise of Integrity" located within the CCAC branch office.



Primary students participating in activities of the “New Generation of Integrity” in the CCAC branch office

Representatives of the international organization “Transparency International”, who visited the CCAC and its branch office, highly regarded the Integrity-Education Programme, which was introduced in a special edition in December 2004 of the moral educational journal of the Transparency International – *Teaching Integrity to Youth*; the first time Macao’s experience of youth integrity education was shown on an international stage.



A special edition of the moral educational journal – *Teaching Integrity to Youth* where Macao’s youth integrity education was introduced

In 2005, the branch office organized 106 sessions of activities of “New Generation of Integrity” in which 25 schools with 4,260 students participated. Meanwhile, the branch office had also collected opinions concerning the scheme from teachers who generally approved the teaching contents as well as provided some valuable suggestions for improvements.

Table 24  
Statistics of student participation in “New Generation of Integrity; an Education Programme on Honesty for Primary Students” in 2005

2005	Educational institutes	Number of sessions	Number of participants
1	Primary School Luso-Chinese of Tamagnini Barbosa	5	152
2	Primary School Luso-Chinese of Sir Robert Ho Tung	1	33
3	School of Neighbourhood Association of Bairro do Patane	15	530
4	Pui Cheng Middle School	14	798
5	The Workers’ Children School (Primary Section)	5	255
6	Choi Nong Chi Tai Middle School	2	90
7	Salesian Institute	2	90
8	Sacred Heart Canossian College( English section)	1	50
9	Diocesan College of Saint Joseph (5 <sup>th</sup> School)	1	39
10	Santa Maria Mazzarello School	6	187
11	Macao Portuguese School	1	27
12	Madalena Canossian School	3	103
13	Kwong Tai Middle School	5	221
14	The School of the Nations	1	12
15	Keang Peng School (Primary)	12	547
16	Primary School Luso-Chinese of Taipa	3	83
17	Primary School Luso-Chinese of Flora	1	21
18	Kao Yip Middle School (Primary Section)	5	220
19	Diocesan College of Saint Joseph (2 <sup>nd</sup> &3 <sup>rd</sup> School)	4	125
20	School of Santíssimo Rosário	3	114
21	D. Luís Versiglia Memorial School	1	29
22	Sacred Heart Canossian College (Chinese section)	3	113
23	Fukien Middle School	8	287
24	Lin Fong Pou Chai School	3	121
25	Pui Va Middle School	1	13
<b>Total</b>		<b>106</b>	<b>4,260</b>



In addition, 15 sessions of “June 1<sup>st</sup> Children’s Special programme” were held in the CCAC branch office around Children’s Day. and 638 children enjoyed the activities.

Table 25  
Statistics of students participating in “June 1<sup>st</sup> Children’s Special programme”

2005	Educational institutes	Number of sessions	Number of participants
1	School of Neighbourhood Association	4	180
2	Sacred Heart Canossian College(Chinese Section)	3	138
3	Green Island Primary School	4	148
4	Pui Tou School (Primary)	3	128
5	Shá Lei Tau Baptist School	1	44
<b>Total</b>		<b>15</b>	<b>638</b>

### 6.1.3 Integrity Week for High Schools

In order to further implement the “Education Programme on Honesty for Teenagers”, the CCAC took several schools as experimental units, carrying out “The Integrity Week” scheme. A multidimensional and interactive approach was adopted to promote integrity awareness and noble character for high school students.



Inauguration ceremony of “The Integrity Week” in Pui Cheng Middle School



Based on the experience of “The Integrity Week” implemented in Hou Kong Middle School and its branch campus in 2004, the CCAC further carried out the programme in Mateus Ricci College, Pui Cheng Middle School, and Macao Portuguese School in January, April and May during 2005.

The activities of “The Integrity Week” were designed in a most suitable way to combine with the schools’ routine moral education, nurturing values and a spirit of righteousness and integrity through sharing experiences, visual materials, dramas, songs and other multimedia and interactive ways. The activities included exhibitions on the functions of the CCAC and the real cases it handled, paper-games, student-orientated talks by the CCAC staff as well as projections of short films adapted from real cases. In the meantime, the short drama of “Choice of Man” based on a real story directed and played by students themselves was performed on stage and the song of integrity sung. An adapted drama “Corrupt Cinderella”, written, directed and performed by students of the Macao Portuguese school, was also played.



Representatives of the CCAC, the leaders of the Macao Portuguese school and students on stage for group photo

“The Integrity Week” was fully supported by the schools. The Macao Portuguese school held a craft competition of “Macao – corruption-free city”; the Association of History and Geography in Pui Cheng Middle School made a CD of “Officials of Integrity” and “Corrupt officials” based on their researched materials. The CD was then presented to the CCAC and was consequently shown on exhibition boards in the campus. At the end of the year, the school

also organized a “Bazaar” themed “integrity and honesty”. To enhance the activities of the Integrity Week, the CCAC held 17 seminars with 780 students participating concurrently.

Table 26  
Statistics of students participating in “The Integrity Week”

2005	Educational institutes	Inauguration ceremony		Seminars		
		Participants	Number of participants	Participants	Number of sessions	Number of participants
1	Mateus Ricci College	High school students at all levels	1,560	Form 5 students	5	195
2	Pui Cheng Middle School	Form 5 students	210	Form 4 and Form 6 students	8	417
3	Macao Portuguese School	7 <sup>th</sup> , 8 <sup>th</sup> and 9 <sup>th</sup> year students	168	7 <sup>th</sup> , 8 <sup>th</sup> and 9 <sup>th</sup> year students	4	168
<b>Total</b>		—	1,938	—	17	780

Table 27  
Statistics of teenagers, students and trainees participating in the seminar of “Integrity and Honesty” in 2005

2005	Educational institutes or organizations	Number of sessions	Number of participants	Total participants
1	Pui Cheng Middle School (Honesty and Integrity Programme for Teenagers)	3	1,241	3,441
2	Macao Baptist College (Honesty and Integrity Programme for Teenagers)	2	1,700	
3	Xin Hua Evening Secondary school (Honesty and Integrity Programme for Teenagers)	1	500	
4	Macao Tourism and Casino Career Centre	11	1,209	1,393
5	Youth Correctional Institution of the Legal Affairs Bureau	2	34	
6	Family Support Centre of the General Union of the Neighbourhood Associations	1	20	
7	Youth Committee of the Association of Women of Macao	1	30	
8	The Affiliated School of the University of Macau	1	43	
9	Macao Sam Yuk Middle School	1	12	
10	Ha Wan Baptist Church Social Service Centre	1	30	
11	Youth Centre of Hac Sa Van	1	15	
<b>Total</b>		25	—	4,834

#### 6.1.4 Promotions of “Integrity Awareness” for Institutions and Associations

In 2005, built on the previous foundations, the CCAC further implemented promotions for communities, enterprises and associations. Different audiences were targeted differently by providing more concrete and practical contents through interactive ways. As a result, more extensive social cooperation has been achieved.

In 2005, 12 sessions of seminars and visits were organized for institution and civil association members, with 510 participants.



A seminar on “Integrity Awareness” was held for staff members of the Industrial and Commercial Bank of China , Macau branch

Table 28  
Statistics on seminars for institutions in 2005

2005	Institutions	Participants	Number of sessions	Number of participants
1	Macao Electricity Ltd.	Directors / staff members	3	154
2	Industrial and Commercial Bank of China, Macau Branch	Chief / staff members	1	25
3	Tai Fung Bank	New recruits	1	60
4	Overseas National Bank (BNU)	Staff members	1	50
<b>Total</b>			<b>6</b>	<b>289</b>

Table 29  
Statistics on seminars for civil associations in 2005

2005	Associations	Participants	Number of sessions	Number of participants
1	Hip Lek Association of Macao Caritas	Beneficiaries of financial aid of the Social Welfare Bureau	2	72
2	Mong-Há Senior Citizen Centre	Seniors	2	90
3	Good Shepherd Sisters Women's Mutual Help Centre	Associates and their children	1	23
4	Family Support Centre of Women's Association in Northern District	Women volunteers	1	36
<b>Total</b>			<b>6</b>	<b>221</b>

In a nutshell, the CCAC organized 371 sessions of seminars, symposiums and forums throughout the year, with 33,823 participants.

Table 30  
Statistics on seminars, symposiums and workshops held in 2005

Activities	Numbe of sessions	Number of participants	Sub-total of participants
New Generation of Integrity; an Education Programme on Honesty for Primary Students	106	4,260	Students: 10,512 (Table 25 to 28)
The Integrity Week	17	780	
June 1 <sup>st</sup> Children's Special programme	15	638	
Education programme on Honesty for Teenagers	6	3,441	
Seminars for teenagers, students and trainees	19	1,393	
Symposium on "Noble Character, Righteous Conduct"	122	18,410	Public servants: 20,228 (Table 22, 24)
Basic training course for public servants	30	880	
Seminars on "Public Procurement"	4	240	
Seminars on "Declaration of Incomes and Properties"	2	70	
Seminars on "Integrity for Public Interest"	14	528	
Seminars on "Occupational Crimes"	1	100	Others: 3,083 (Table 11,29,30)
Seminars on "Clean Election"	23	2,573	
Seminars on "Integrity Awareness" for associations	6	221	
Seminars on "Integrity Awareness" for institutions	6	289	
<b>Total sessions</b>			<b>371</b>
<b>Total participants</b>			<b>33,823</b>

### 6.1.5 Producing and Revising Teaching Materials

As early as in 2003, the CCAC produced a textbook named *Honesty and Integrity* as a supplementary moral education teaching material for year 4 to year 6 primary school students, which has been adopted by 90% of primary schools in Macao. In 2005, based on the two years' teaching practice and suggestions received from the schools and teachers, the CCAC revised the book in the same year. Meanwhile, the CCAC compiled a complementing teaching book for teachers to achieve better results. The revised *Honesty and Integrity* has been distributed to 40 schools for free since August 2005.



Revised teaching set for primary schools

Apart from the teacher's book, the teaching set also included some interactive elements, such as CDs, role-play costumes, paronomasia, picture books, and mail writings. All these materials can be used separately or in conjunction with the *Honesty and Integrity*, and primary students can also send letters to Mr. William (symbolic figure of integrity).

In addition, the CCAC also designed a board game named "Paradise of Integrity" in Chinese, Portuguese and English to suit all students of different schools, promoting the awareness of integrity in an entertaining style.





Primary school students can write letters to William of the CCAC by using the postage pack

## 6.2 The Branch Office

2005 was the second year the branch office carried out its duties which included three major functions: strengthening relations with the community, enhancing the efficiency of integrity education and receiving public complaints and consultations.

### 6.2.1 *Bonding Ties with the Community*

Relations with the community are an important resource for the CCAC's promotion and education of integrity. In order to expand the community network in 2005, the branch office continued visiting associations in the northern district, collecting opinions and suggestions for the CCAC, the legislative assembly election and the operation of the CCAC branch office, gaining confidence and support to the work of the CCAC and encouraging citizens to actively participate in building up a corruption-free society. Meanwhile, the CCAC regularly organized activities with associations in the northern district to communicate information on integrity and law-abiding awareness.





Association leaders visiting the branch office conversed with the CCAC representatives

### *6.2.2 Enhancing the Efficiency of Integrity Education*

Apart from the “New Generation of Integrity-Education Programme on Honesty for Primary Students”, in 2005 the branch office organized 30 other activities including 15 sessions of “June 1<sup>st</sup> Children’s Special programme” shown in Table 25, with 638 primary school students participating. In general, children of Youth Correctional Institution, civil association staff members, associates and their children, volunteers, seniors and teenagers were involved, totaling 1,063 participants.

### *6.2.3 Attending to the Public*

In 2005, the branch office continued its mission receiving public complaints, consultations and simple enquiries, of which there were 41 complaints and 364 enquires. Most of the cases were presented in person.

Table 31  
Statistics on the number of citizens attended to in the branch office in 2005

Complaints/reports			Requests for consultations	Simple enquiries	
In person	Telephone	By mail		In person	Telephone
15	11	15	212	118	34
Sub-total: 41			Sub-total: 364		
Total: 405					

## 6.3 Routine Promotion and Education

### 6.3.1 Compilation and Publications

#### 1. Selected Work of Integrity

*The Selected Work of Integrity (1) –Occupational Crimes* was published in a Chinese-Portuguese bilingual version, in which three articles of “Occupational Crimes ” were written by Dr. Júlio Alberto Carneiro Pereira, the former Deputy Commissioner of the anti-corruption institution of Macao (High Commission Against Corruption and Administrative Illegality). He is the Assistant Public Prosecutor-General of Portugal now. In these three articles, the concept of public servants, the characteristics of the crime of accepting bribes and the crime of unjustified wealth in terms of criminal laws were analyzed. In November 2005, the book-releasing ceremony was held by the CCAC followed by a seminar on “Occupational Crimes ”. The seminar was presided by the Deputy Commissioner Tou Wai Fong, and lectured by Dr. Júlio Pereira and Professor Ma Kechang, a famous criminal law expert from mainland China and professor in the Faculty of Law of the Wuhan University.



*The Selected Work of Integrity(1) –Occupational Crimes*



On the seminar, (from left): Judge Dr. Lai Kin Hong, President of the Court of Second Instance, Professor Ma Kechang, Deputy Commissioner Tou Wai Fong, Dr. Júlio Pereira, Assistant Public Prosecutor-General (Portugal) and Dr. Augusto Vasconcelos, Assistant Public Prosecutor-General (Macao)

## 2. Quarterly CCAC Bulletin

The *quarterly CCAC Bulletin* launched in March 2002 is available in both Chinese and Portuguese versions. The publication is distributed to different departments, institutions and the public as well as relevant institutions outside Macao for them to have a better understanding of the CCAC. From 2004, the *Bulletin* was extended to 20 pages with more columns and diversified layout.

### *6.3.2 Promoting Integrity Awareness through Multi-Channels*

The CCAC extensively disseminated the message of integrity awareness through multi-channels, including

- Press release

The press release can be classified into three categories, namely cases detected by the CCAC, court verdicts of the detected cases and briefings of current activities of the CCAC.

Certain articles selected from the “Clean Administration Forum” were published in the *Periodicals of the Association of Adult Education of Macao* and the publication of the Macao Prison “*Kai Pou*”; meanwhile some associations also requested the CCAC to provide suitable manuscripts for their journals.

- Promoting messages of integrity via advertisements in newspapers, on television and radio, buses and so on.

- Making souvenirs for promotion.

### *6.3.3 Co-organization and Participation in other Activities*

The CCAC actively participated in various community activities in 2005, including

- “Emotional Summer Night” organized by the Education and Youth Affairs Bureau;
- “International Children’s Day” activity hosted by the SAR Government;



Participating in “Children’s Day” activity co-organized by several government departments

- Activities like “Celebrating with Public Servants”, “June 1<sup>st</sup> International Children’s Day”, “Carnival Against Crimes and Drug Abuse”, “Promoting Services for New Residents of Macao” organized by public servant associations, General Workers’ Union of Macao, Junior Police Call and Social Welfare Bureau respectively;



Participating in the activity of “Promoting Services for New Residents of Macao” organized by Social Welfare Bureau

- The 36th Caritas Bazaar of Macao;

- Other activities for public welfare and entertainment, such as “Charity Walk for a Million”, collective blood donation and football matches among public servants.

#### *6.3.4 Recruiting New Members for the Volunteer Team*

Based on the former “Anti-electoral-Corruption Volunteer Team” initiated in 2001, the “Anti-Corruption Volunteer Team” was set up in 2002 after new recruitments were added.

In April 2005, the “CCAC Volunteer Team” once again recruited more than 200 new members, making up about 380 people, including doctors, teachers, engineers, public servants, students, housewives, retirees and so on. The CCAC also organized a special day in July – “The Day of Conviviality” for volunteers, awarding mementos to over ten volunteers who had been actively participating in the activities for the past few years. In 2005, the volunteer



team assisted the CCAC mainly in promoting integrity awareness, and participated in a series of anti-electoral-corruption activities during the legislative election held in September.



Outstanding members of the “CCAC Volunteer Team” were awarded by the CCAC

## 6.4 Contacts and Exchanges

### 6.4.1 Relations with the Media

Maintaining close ties and good relations with the media has long been the CCAC’s basic principle, which benefits its communication with the society.



The CCAC meets media directors in the annual “Afternoon Tea Meeting on Clean Administration”



1. “Afternoon Tea Meeting on Clean Administration”: Every year the CCAC takes advantage of the Chinese Spring Festival to invite the person-in-charge of the press and media for the event and listen to their opinions and suggestions, which are of great value and reference for the CCAC in formulating anti-corruption strategies.

2. “Enquiry and Reply”: a television programme presented by the CCAC’s personnel, explaining relevant cases and answering questions.

#### *6.4.2 External Contacts and Exchanges*

Throughout the year, the CCAC continued strengthening its external ties with the institutions of anti-corruption and ombudsman in mainland China, Hong Kong and other places. The conferences and exchanges the CCAC were involved in (in chronological order): 22<sup>nd</sup> Australasian and Pacific Region Ombudsman Conference of I.O.I in New Zealand, 2<sup>nd</sup> Portugal-Brazil Ombudsman Symposium held for its 30<sup>th</sup> anniversary, Leadership Forum 2005 organized by the Independent Commission Against Corruption of Hong Kong, visited the Thailand Ombudsman Bureau and the Office of National Counter Corruption Commission, Malaysian Public Complaints Bureau and Anti-Corruption Bureau, attended 22<sup>nd</sup> Congress on the Law of the World in Beijing, 2<sup>nd</sup> China-ASEAN Procurators-General Conference in Thailand, Board of Directors Meeting of International Ombudsman Institute (I.O.I.) in Saint John of Antigua and Barbuda, 1<sup>st</sup> ASEM Prosecutors – General Conference in Shenzhen, Board of Directors Meeting of Hong Kong-Asian Ombudsman and the 9<sup>th</sup> Session, where the CCAC’s representative gave a speech on “How to enhance public understanding of ombudsman”.

Meanwhile, the CCAC received several delegations from different countries and regions, mainly including (in chronological order): delegation of Jiang Men People’s Procuratorate, American Counselor in Hong Kong and Macao, Hong Kong Journalists Association, Bhutan Auditor General, delegation of Supreme People’s Procuratorate, delegation of Zhongshan Municipal People’s Procuratorate, Supreme Court of Justice, Vice-Minister Huang Shuxian and his delegation of the Ministry of Supervision of the People’s Republic of China, members of Asia Ombudsman Association, the Director and his delegation of the Anti-corruption Agency of Malaysia and the head of the National Ombudsman Commission of Indonesia.



Commissioner Cheong U and Deputy Commissioner Tou Wai Fong attended the 2<sup>nd</sup> Portugal-Brazil Ombudsman Symposium, together with leaders of other delegations



The Commissioner attended the 22<sup>nd</sup> Congress on the Law of the World in Beijing



Board of Directors Meeting of the International Ombudsman Institute in Saint John of Antigua and Barbuda to which the Commissioner Cheong U was invited as a member of the Board of Directors



The CCAC participated in the 9<sup>th</sup> Asian Ombudsman Association Conference





Delegation of the Supreme People's Procuratorate visiting the CCAC



Vice-Minister of the Ministry of Supervision of China, Huang Shuxian visiting the CCAC and signing the "Beadroll of Honorable Guests"



Members of the A.O.A. visited the CCAC, President Sahibzada (Pakistan Ombudsman, the 5<sup>th</sup> person from the left)



Indonesian Ombudsman Antonius Sujata visiting the CCAC

In order to strengthen the ties with the community of Macao, the leaders of the CCAC visited several associations and organizations, and met the persons in charge, including Macao Chamber of Commerce, Union of Neighbourhood Associations of Macao and its affiliates, General Workers' Union of Macao, Macao Women Association and its affiliates, General Union

of Macao Construction Industry, Association of Mutual Assistance of Hawkers of Macao, Association of Mutual Help for Fishermen, Women Association of Taipa and Coloane, Friendship Association of Coloane Residents, Macao Association of Office Staff and so on. From these meetings, the CCAC collected opinions from all walks of life on anti-corruption work.



The Commissioner visited Macao Chamber of Commerce and met its leaders

Representatives from the Central Government Units located in Macao, public departments, academic institutes and organizations, including representatives or leaders of the People's Liberation Army In Macao, the Liaison Office of the Central People's Government in Macao SAR, the Civic and Municipal Affairs Bureau, Education and Youth Affairs Bureau, Association of Public Servants of Macao, Association of Professionals of Macao's Public Administration, and students from the Faculty of Law of Macao Science and Technology University paid visits to the CCAC or its branch office. Towards the end of 2005, the Chief Executive visited the CCAC and delivered a speech, encouraging staff members to continue with perseverance in performing their duty, contributing to the healthy development of Macao.





The Chief Executive Edmund Ho visited the CCAC on 6th December 2005



The leaders of the Civic and Municipal Affairs Bureau visited the CCAC branch office

# **CHAPTER VII**

## **ADMINISTRATION**

## CHAPTER VII - ADMINISTRATION

### 7.1 Budget

#### *7.1.1 Legal Framework*

The CCAC is a public entity endowed with functional, administrative and financial autonomy, its organization and operations are governed by Law No. 10/2000 and Administrative Regulation No. 31/2000. In the meantime, the general financial system of autonomous entities as stipulated in Decree Law No. 53/93/M of 27 September is complementarily applicable to the CCAC.

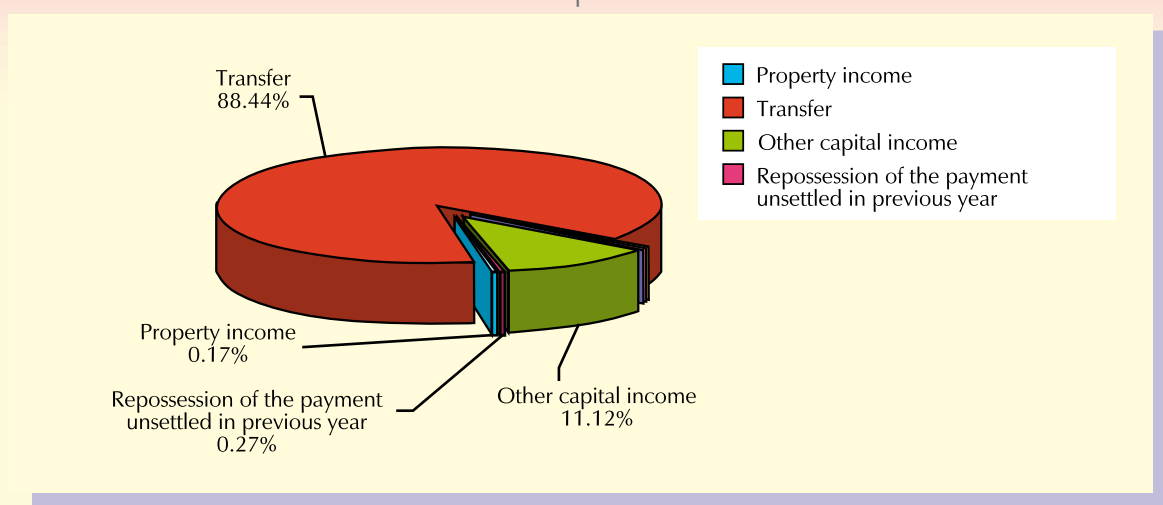
The budget of the CCAC for 2005 was approved by the Executive Order No. 63/2005 of the Chief Executive and was published in Series 1, Issue 12 of the Official Gazette of the Macao SAR on 21 March 2005. The budgeted income approved was MOP 80,086,000.00 (eighty million and eighty-six thousand patacas).

After closing the accounts of 2004 and settling the related surplus, the CCAC in accordance with the law prepared the supplementary budget. This was approved by the Executive Order No. 156/2005 of the Chief Executive and was published in Series 1, Issue 20 of the Official Gazette of the Macao SAR on 16 May 2005. Considering the surplus was increased by MOP4,892,441.37 (four million, eight hundred and ninety-two thousand, four hundred and forty-one patacas, and thirty-seven avos) based on the financial management in the previous year, therefore the budget for the CCAC to carry out various projects and activities in 2005 totaled MOP84,978,441.37 (eighty-four million, nine hundred and seventy-eight thousand, four hundred and forty-one patacas, and thirty-seven avos).

#### *7.1.2 Budgeted Income*

The amended budgeted income for 2005 was MOP84,978,441.37 (eighty-four million, nine hundred and seventy-eight thousand, four hundred and forty-one patacas, and thirty-seven avos). However, the actual income was MOP85,344,574.48 (eighty-five million, three hundred and forty-four thousand, five hundred and seventy-four patacas, and forty-eight avos), an increase of MOP366,133.11, resulting in an execution rate of 100.43%.

Table 33  
Income components in 2005



### 7.1.3 Budget Expenditure

While the revised budget totalled MOP84,978,441.37 (eighty-four million, nine hundred and seventy-eight thousand, four hundred and forty-one patacas, and thirty-seven avos), the actual expenditure was MOP68,735,622.50 (sixty-eight million, seven hundred and thirty-five thousand, six hundred and twenty-two patacas, fifty avos), resulting in an execution rate of 80.89%. The management surplus was mainly due to the fact that some of the projects expected to have been completed in 2005 remained unfinished. For example, certain equipment and some of the expected vacancies in the CCAC were yet to be filled.

Of the actual expenditure of MOP68,735,622.50 (sixty-eight million, seven hundred and thirty-five thousand, six hundred and twenty-two patacas, fifty avos), the largest portion amounting to MOP42,310,467.17 (forty-two million, three hundred and ten thousand, four hundred and sixty-seven patacas and seventeen avos) went to personnel costs, accounting for 61.56% of the total expenditure. The second largest expenditure was on "Acquisition of assets and services", totalling MOP16,676,109.06 (sixteen million, six hundred and seven-six thousand, hundred and nine patacas, and six avos), accounting for 24.26% of the total. The amount for "Ordinary transfers" was MOP4,616,103.00 (four million, six hundred and sixteen thousand, hundred and three patacas), accounting for 6.72%. In addition, the other "routine expenditure" was MOP4,377,951.91 (four million, three hundred and seventy-seven thousand, nine hundred and fifty-one patacas, and ninety-one avos), accounting for 6.37%. And

Out of the total actual income of MOP85,344,574.48 (eighty-five million, three hundred and forty-four thousand, five hundred and seventy-four patacas, and forty-eight avos), the major part came from the item of “Transferring of the General Budget of the Macao SAR”, which was MOP75,480,693.00 (seventy-five million, four hundred and eighty thousand, six hundred and ninety-three patacas), accounting for 88.44% of the actual total.

Another major source of income was “Other Capital Income”, which was MOP9,492,441.37 (nine million, four hundred and ninety two thousand, four hundred and forty-one patacas, and thirty-seven avos), accounting for 11.12% of the actual total. This was the management surplus of 2004.

Table 32  
Financial Income in 2005

Code	Designation	Budgeted income	Supplementary budget	Total budgeted income	Actual income		Difference	Execution rate
					Amount	%		
	Ordinary income	75,485,000.00	0.00	75,485,000.00	75,624,412.87	88.61%	139,412.87	100.18%
04-00-00	Property income	1,000.00	0.00	1,000.00	141,164.97	0.17%	140,164.97	14,116.50%
05-00-00	Transfers	75,480,000.00	0.00	75,480,000.00	75,480,693.00	88.44%	693	100%
06-00-00	Durable goods sales	1,000.00	0.00	1,000.00	0.00	0.00%	-1,000.00	0.00%
07-00-00	Sale of durable assets	2,000.00	0.00	2,000.00	2,554.90	0.00%	554.90	127.75%
08-00-00	Other ordinary income	1,000.00	0.00	1,000.00	0.00	0.00%	-1,000.00	0.00%
	Capital income	4,601,000.00	4,892,441.37	9,493,441.37	9,720,161.61	11.39%	226,720.24	102.39%
13-00-00	Other capital income	4,600,000.00	4,892,441.37	9,492,441.37	9,492,441.37	11.12%	0.00	100%
14-00-00	Repossession of the payment unsettled in previous year	1,000.00	0.00	1,000.00	227,720.24	0.27%	226,720.24	22,772.02%
<b>Total</b>		80,086,000.00	4,892,441.37	84,978,441.37	85,344,574.48	100%	366,133.11	100.43%



the amount for investment was MOP754,991.36 (seven hundred and fifty-four thousand, nine hundred and ninety-one patacas, and thirty-six avos), accounting for 1.10 % of the actual total expenditure.

As the actual total income was MOP85,344,574.48 (eighty-five million, three hundred and forty-four thousand, five hundred and seventy-four patacas, and forty-eight avos) and the total expenditure was MOP68,735,622.50 (sixty-eight million, seven hundred and thirty-five thousand, six hundred and twenty-two patacas and fifty avos), thus the management surplus in 2005 was MOP16,608,951.98 (sixteen million, six hundred and eight thousand, nine hundred and fifty-one patacas, and ninety-eight avos).

Table 34  
Financial expenditure in 2005

Code	Designation	Initial appropriation (1)	Supplementary budget (2)	Budget amendment (3)	Amended appropriation (4)=(1)+(2)+(3)	Actual expenditure (5)	Surplus (4)-(5)	Execution rate (5) / (4) x 100%
	Routine expenditure	73,566,000.00	4,892,441.37	1,100,000.00	79,558,441.37	67,980,631.14	11,577,810.23	85.45%
01-00-00-00	Personnel	44,771,000.00			44,771,000.00	42,310,467.17	2,460,532.83	94.50%
01-01-00-00	Fixed/long-term remuneration	42,560,000.00		-2,000.00	42,558,000.00	40,634,047.80	1,923,952.20	95.48%
01-02-00-00	Extra remuneration	1,106,000.00		2,000.00	1,108,000.00	911,010.00	196,990.00	82.22%
01-03-00-00	Bonus in kind	35,000.00			35,000.00	16,151.85	18,848.15	46.15%
01-05-00-00	Providence welfare	430,000.00			430,000.00	294,070.00	135,930.00	68.39%
01-06-00-00	Compensation of expense share	640,000.00			640,000.00	455,187.52	184,812.48	71.12%
<b>02-00-00-00</b>	<b>Assets and services</b>	<b>19,305,000.00</b>		<b>980,000.00</b>	<b>20,285,000.00</b>	<b>16,676,109.06</b>	<b>3,608,890.94</b>	<b>82.21%</b>
02-01-00-00	Durable assests	1,010,000.00			1,010,000.00	260,810.84	749,189.16	25.82%
02-02-00-00	Non-durable assets	1,230,000.00			1,230,000.00	783,936.99	446,063.01	63.73%
02-03-00-00	Aquisition of services	17,065,000.00		980,000.00	18,045,000.00	15,631,361.23	2,413,638.77	86.62%
<b>04-00-00-00</b>	<b>Ordinary transfers</b>	<b>3,980,000.00</b>		<b>740,000.00</b>	<b>4,720,000.00</b>	<b>4,616,103.00</b>	<b>103,897.00</b>	<b>97.80%</b>
<b>05-00-00-00</b>	<b>Other ordinary expenditure</b>	<b>5,510,000.00</b>	<b>4,892,441.37</b>	<b>-620,000.00</b>	<b>9,782,441.37</b>	<b>4,377,951.91</b>	<b>5,404,489.46</b>	<b>44.75%</b>
	<b>Capital expenditure</b>	<b>6,520,000.00</b>		<b>-1,100,000.00</b>	<b>5,420,000.00</b>	<b>754,991.36</b>	<b>4,665,008.64</b>	<b>13.93%</b>
<b>07-00-00-00</b>	<b>Investment</b>	<b>6,520,000.00</b>		<b>-1,100,000.00</b>	<b>5,420,000.00</b>	<b>754,991.36</b>	<b>4,665,008.64</b>	<b>13.93%</b>
07-09-00-00	Transportation materials	20,000.00		240,000.00	260,000.00	252,000.00	8,000.00	96.92%
07-10-00-00	Machinery and equipment	6,500,000.00		-1,340,000.00	5,160,000.00	502,991.36	4,657,008.64	9.75%
<b>TOTAL</b>		<b>80,086,000.00</b>	<b>4,892,441.37</b>	<b>0.00</b>	<b>84,978,441.37</b>	<b>68,735,622.50</b>	<b>16,242,818.87</b>	<b>80.89%</b>

Table 35  
Expenditure components in 2005

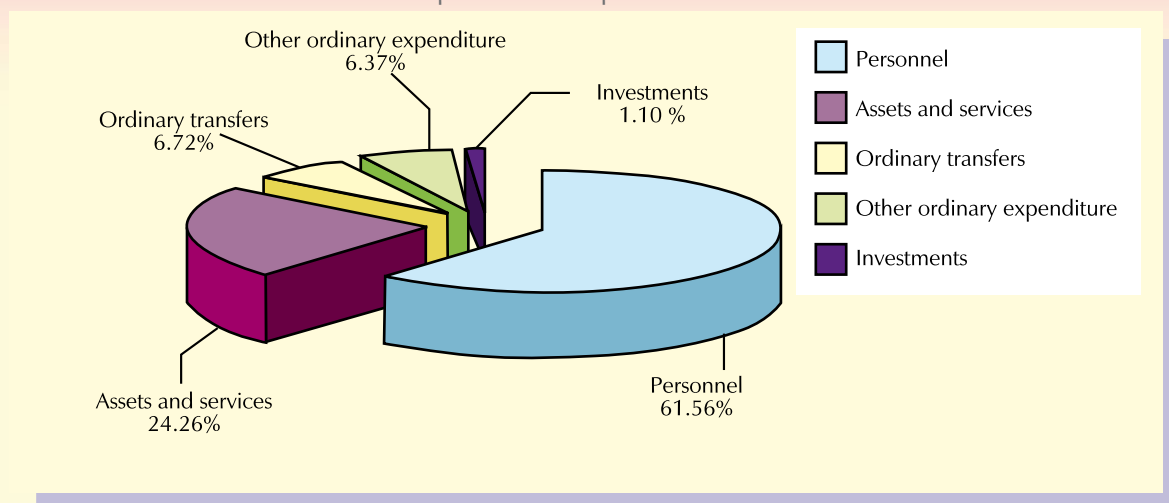
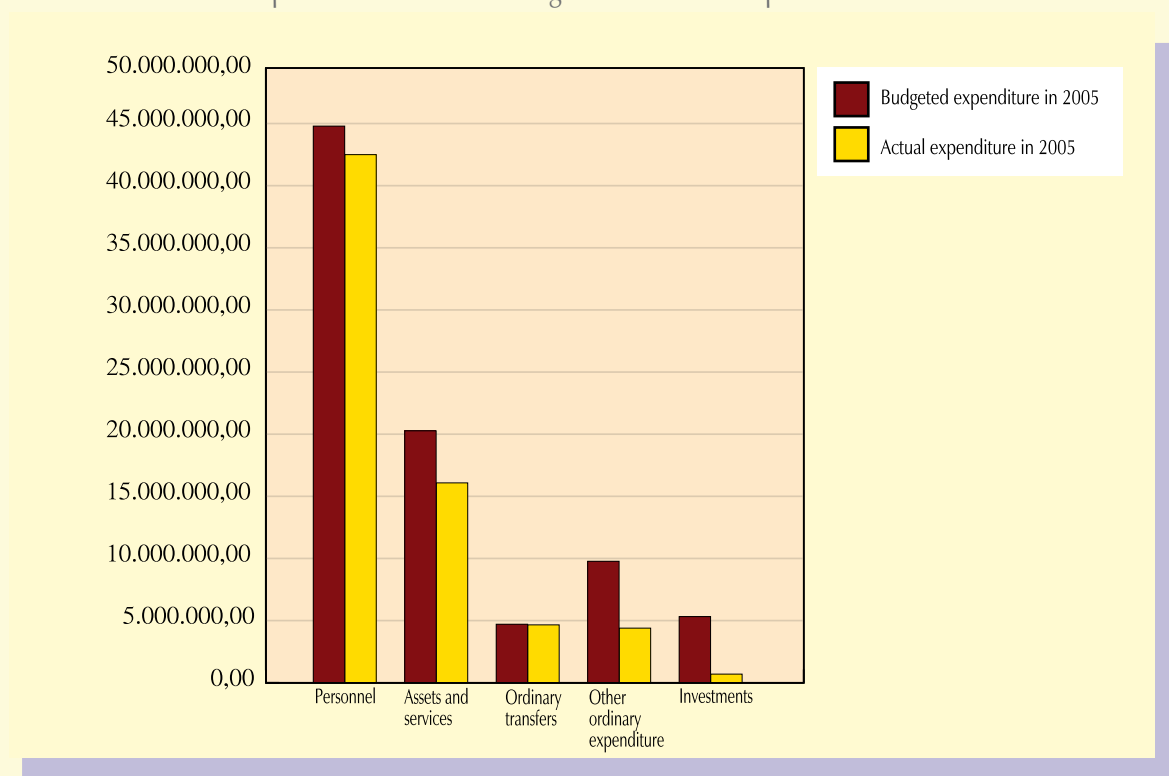


Table 36  
Comparison between the budgeted and actual expenditures in 2005



## 7.2 Personnel

To cope with the increasing workload of all CCAC departments, an amendment was made to the “Organization and Operation of the CCAC” related in Article 31 of the Adminis-

trative Regulation No. 31/2000 through the Administrative Order No. 28/2003 given on 21 July 2003, thus the total number of staff members in the CCAC was 109. By 31 December 2005, the personnel of the CCAC had increased to 112.

Table 37  
Comparison of the number of staff from 2002 to 2005

Posts	31-12-2002	31-12-2003	31-12-2004	31-12-2005
Commissioner	1	1	1	1
Deputy Commissioner	2	2	2	2
Chief of Cabinet of the Commissioner	1	1	1	1
Adviser or Expert	6	6	5	4
Department Head	1	1	1	1
Chief Investigation Officer	2	3	3	2
Division Head	0	1	1	1
Senior Officer	6	4	3	3
Senior Information Technology Officer	1	2	1	2
Interpreter	0	0	0	—
Personal Secretary	2	1	1	2
Office Assistant	—	1	1	1
Chinese Expert	1	1	1	1
Officer	1	1	1	1
Information Technology Officer	—	1	1	2
Investigator	35	40	50	49
Assistant Officer	8	18	16	15
Public Relations Officer	2	1	0	—
Auxiliary Officer	7	6	6	6
Information Technology Assistant	1	1	1	—
Administrative Official	3	3	5	6
Worker and Auxiliary Staff	11	11	11	11
Full-time Temporary Staff	—	—	—	1
<b>Total</b>	<b>91</b>	<b>106</b>	<b>112</b>	<b>112</b>



**APPENDIX**  
**SUMMARIES OF THE CASES COMMENCED**  
**FOR INVESTIGATION IN THE AREA OF**  
**OMBUDSMAN**



## APPENDIX - SUMMARIES OF THE CASES COMMENCED FOR INVESTIGATION IN THE AREA OF OMBUDSMAN

### I. File No. 63/2004

Subject: Personnel regulations of administrative and financial autonomous entities

The CCAC received a number of complaints concerning some illegal or irregular practices of Bureau A in approving housing allowance, travelling allowance for children studying outside Macao and recruitment procedures. After analyzing the complaints, some flaws were found in Bureau A's personnel regulations, code of conduct and internal guidelines which need to be improved or supplemented. Thus, the CCAC commenced the case for investigation and discovered several illegalities and malpractices the Bureau had committed as well as some shortcomings in its internal management that needed to be corrected.

A. Concerning the administrative illegalities and malpractices of Public Institution A (hereafter called "Bureau A")

*1. An administrative committee member (now has left) breached the regulation of mandatory recusal of the Code of Administrative Procedure in dealing with "travel allowance for children studying outside Macao".*

- a. Evidence revealed that on 13 June 2000 staff W in Bureau A submitted his application to the authority, applying for "travel allowance for children studying outside Macao". Concerning the application, legal officer J, in the affiliated unit in charge of internal legal affairs, wrote a recommendation of no. XX/GXX/2000 on 4 August 2000 suggesting that "ensino médio" mentioned in the Specified Personnel Regulation should be understood as "secondary study", while the term "recognition" meant that the courses and institutes were recognized by the country's competent authority. The chief of the unit, C, agreed with the above legal interpretation, and suggested to the administrative committee that the allowance be granted to staff W and that administrative instruction be issued to the department to clarify the Specified Personnel Regulation. However, the administrative committee did not make any decision on the above-mentioned application.

- b. On 17 December 2001, administrative committee member R applied for the “travel allowance for children studying outside Macao” based on the reason that his daughter was scheduled to set off for England on 2 January 2002 to study the pre-university A-Level course (pré-universitário-Curso de Nível A, 2001-2002). At that moment, the department did not make any decision on R’s application.
- c. On 18 January 2002, Mr. J (as mentioned above) wrote a report, claiming that he had followed Mr. R’s instruction and submitted to his superior the draft of the administrative instruction explaining the article of “travel allowance for children studying outside Macao” in the Specified Personnel Regulation. In fact, the so-called draft instruction was the recommendation of no. XX/GXX/2000 on 4 August 2000. On 21 January 2002, Mr. R gave his opinion on the recommendation, pointing out that “official recognition” (reconhecimento oficial) prescribed in the Specified Personnel Regulation only referred to “tertiary study” (ensino superior) but not “ensino médio” since the wording “recognized officially” (oficialmente reconhecido) was singular in the Portuguese version.
- d. On 22 May 2003, the administrative committee made a decision (all the members including R attended the meeting and approved the decision). In the decision, the recommendation written on 4 August 2000 including the arguments and conclusion it derived were quoted, explaining the stipulation of “travel allowance for children studying outside Macao” as follows: the “middle school courses” refers to courses of Grade 10, 11 and 12 in the Portuguese educational system or the last 3 years of high school in the Chinese educational system or equivalence. As for children in higher education, the parent has to provide a declaration issued by the Tertiary Education Services Office; for middle school students, a declaration from the educational institute was required to prove its recognition by the government. However, the decision was only applicable to those applications pending a decision. In other words, the administrative committee’s resolution focused on the criteria of application and documents submitted for the backlog cases.
- e. It is worth noting that the administrative committee member R, with his application pending approval, instructed his inferiors to write a report on the article of the “travel allowance for children studying outside Macao” prescribed in the Specified

Personnel Regulation, gave suggestions on the draft administrative instruction and even participated in the decision making process. Mr. R's behaviour had breached the "mandatory recusal system" prescribed by the Code of Administrative Procedure (Article 26, Clause 5 and Article 46, Clause 1 a).

- f. Based on this, even though R has left his post, Bureau A should adopt adequate measures to avoid similar situations, such as formulating internal guidelines to remind its staff of following the recusal system and fortifying the internal monitoring mechanism.

*2. During the recruitment procedure of a legal staff member, Bureau A breached the principle of the Code of Administrative Procedure, reflecting administrative malpractices and unclear responsibilities and duties*

- a. Bureau A's administrative committee made a decision on 23 July 2003 to recruit an officer (Técnico) as legal advisor from the public. The minimum criterion was "possessing a B.A. in law, with the degree being recognized by Macao government and the courses being in line with Macao's legal system ..."
- b. Evidence revealed that applicant L had not met the minimum criterion for entering the examination applying for the post; however, he became one of the 8 short-listed candidates for interview after the preliminary screening of the applicants' information by the evaluation committee. Even on the day of interview, candidate L still failed to meet the minimum academic requirement. Incidentally, fifteen out of the twenty applicants who had not been selected for interviews were law-degree holders.
- c. It is worth noting that even if an applicant could obtain the minimum academic qualification after the application deadline, he should still be eliminated, since the minimum academic qualification was set as an application criterion but not a recruitment criterion. Therefore, judgement should be based on the applicant's conditions at the time of application (before the application deadline). Otherwise, it would be meaningless to set the application criteria.
- d. Though some stipulations in the General Regulations Governing the Staff of the Public Administration of Macao may not be applicable to this case, Bureau A, as a public legal person, recruiting through public examination should at least follow the basic

principles of the Code of Administrative Procedure approved by the Decree No. 57/99/M. The principles include “equal opportunity and adequacy”, “justice and selflessness”, “benevolence”, “cooperation between administrative authority and individuals” and so on.

- e. During the recruitment procedure, Bureau A did not eliminate the applicant L in the screening process but allowed him the chance for an interview. This not only violated the announced application criterion but was also unfair to other applicants, especially to those who were qualified but were not given a chance for an interview. Bureau A had certainly breached the principles of equality, justice and selflessness as stipulated in Article 5, 7 and 9 of the Code of Administrative Procedure.
- f. Applicant L was unable to attend the examination due to his father’s illness. Other candidates completed the interview on 22 and 23 September 2003, and the top three results were 80 marks, 75 marks and 74 marks. Bureau A later on claimed that since the number one candidate (the best candidate) had given up his candidateship (without written explanation, only by R’s oral account), no one was hired.
- g. On 3 December 2003, applicant L wrote to the administrative committee member R, expressing that he had done what he should do as a son and that he was prepared for any job challenges if R was to give him an opportunity. R then wrote a comment to arrange another opportunity for L to take an oral and/or written examination (uma prova oral e/ou escrita) since the number one candidate was unable to sign the contract with Bureau A.
- h. On 16 January 2004, applicant L took the oral and written examination, and got a mark of 75.5.
- i. On 4 February 2004, the evaluation committee handed over a report to R, indicating that candidate L obtained the second highest mark and was just behind the number one candidate who had withdrawn. Thus, L was consequently employed under the recommendation of the evaluation committee.
- j. As a matter of fact, even if it was the case that candidate number one had given up his candidateship, Bureau A should have followed the examination result ranking and tried to hire the second best candidate. Only when hiring those candidates who

had achieved a passing mark in the interview proved unsuccessful, should the Bureau consider interviewing other qualified applicants or select a number of applicants for interview by a standardized criterion, instead of choosing only one applicant for interview without a unified criterion.

- k. It is worth noting that even if Bureau A considered it reasonable to give applicant L another opportunity for an interview, and a written and oral examination (i.e. regarding it as a supplementary examination, since all the other candidates had completed their examinations) in view of his father's illness, there were still no grounds for the decision. If there was an applicant pending "supplementary examination" and the final ranking was not yet confirmed, how could Bureau A claim that "candidate M ranked first..."? How could Bureau A affirm that L's mark was lower than M's? Therefore, Bureau A had seriously breached the principles of equality, justice and openness of public examinations by giving an extra opportunity to applicant L without taking other qualified candidates into account. The decision also raised reasonable doubts about the fairness of the examination – had the applicant been "chosen" by the Bureau beforehand and so was given the special treatment?
- l. Furthermore, applicant L was granted an extra opportunity to take the examination after expressing to the administrative committee member R his intention to work for Bureau A when the whole recruitment procedure had been completed. In this way, the whole recruitment procedure was "reversed" to the selection stage and the final ranking was "overturned". It had violated the normal work procedure and constituted administrative malpractice.
- m. Finally, the above recruitment procedure was based on the resolution of Bureau A's administrative committee on 23 July 2003, and by the same way the evaluation committee was appointed and L was employed. As a matter of fact, according to the Organizational Law of Bureau A, the administrative committee has the right to decide on staff recruitment.
- n. In the above situation, even though the administrative committee member R was in charge of internal personnel affairs or the internal legal affairs of the affiliated unit, he had no right to direct the work of the evaluation committee (unless he was granted a special right by the administrative committee but there was no evidence of such a



grant in this case) nor to interfere with the examination process, such as instructing C, who was a member of the evaluation committee and in charge of legal affairs unit, to interview applicant L, as well as instructing the president of the evaluation committee I to carry out the oral examination and the interview for applicant L. As a result, a three-level selection framework was formed; the administrative committee – the administrative committee member R – the evaluation committee, of which R was the actual manipulator.

- o. In short, Bureau A should adopt effective measures to avoid violating the principles of the Code of Administrative Procedure and committing administrative malpractices and should formulate regulations on recruitment procedures to avoid unclear rights and responsibilities.

*3. In dealing with the “travel allowance for children studying outside Macao”, recovering housing allowance and reissuing housing allowance, Bureau A violated the principles of the Code of Administrative Procedure, committed administrative malpractices and caused perfunctoriness.*

- a. Based on its resolution and relevant administrative instructions, the administrative committee of Bureau A approved three pending cases (including administrative committee member R’s case) of “travel allowance for children studying outside Macao”. Among the three cases, R’s application was submitted last and the screening process lasted for more than a year and a half (applied on 17 December 2001 and was approved on 2 July 2003); in W’s case, it even lasted three years. During the pending period, Bureau A did not make any decisions on the applications (did not even decide on extending the screening period), nor did it explain why the applications were still pending. On the one hand, Bureau A had breached several principles prescribed by the Code of Administrative Procedure, such as Article 11 “the principle of making decisions”, Article 12 “non-bureaucratic and efficient principle” and Article 60 “prompt services”. On the other hand, it raised reasonable doubts about the internal administration of the Bureau – does the duration of screening depend on applicants?

- b. Bureau A decided that the application criteria and document requirement (as prescribed in the resolution and administrative instruction) for “travel allowance for children studying outside Macao” only referred to the “previous” “pending cases” and decided to temporarily stop processing the applications presented after the decision was made. This raised suspicions about whether the administrative instruction was “tailor-made” for those (or one of those) applicants in the pending cases. For other applicants, even if they were in similar situations as the applicants in the pending cases and conformed to the requirements specified in the Specified Personnel Regulation and administrative instruction, they still could not receive the allowance as they were not “pending”. It raised reasonable doubts about the legality and fairness of the resolution and the administrative instruction of the Bureau.
- c. Only in 2003, Bureau A approved the applications for “travel allowance for children studying outside Macao” submitted in 2000 and 2001. Thus, the financial budget for 2003 carried extra burden, which should have been allocated to the financial budgets for 2000, 2001 and 2002. The practice caused irregularities in budgeting and financial management.
- d. In the case of mistakenly granting the housing allowance to staff P, it lasted two years and two months from the time Bureau A discovered the mistake to the time the staff was notified about returning the money. The duration was too long and was bad for the financial management of the bureau. The incident also raised suspicions about whether the Bureau was partial to the staff member by postponing his repayment.
- e. In the case of staff F applying for housing allowance on 26 April 1999, the rental agreement provided was signed on 22 April 1999 (only four days earlier), stating the rental period as “1 January 1998 – 31 December 2000”. Even under such conditions, Bureau A did not require staff F to provide supplementary documents such as rent receipts, and approved his application (despite the fact that Bureau A issued an internal notification No. XX/XX/96 on 9 October 1996, requiring staff members to submit their bank statements or rent receipts to the Personnel and Finance Unit by the 12th day of each month, otherwise the allowance would be suspended until the rent receipt was submitted). It showed that the screening procedure was perfunctory.
- f. In the case of staff U applying for retroactive housing allowance for two years: Based

only on the declaration (without any supporting documents) of staff U who claimed that his application for allowance was submitted in November 2000 but was denied orally by someone (in fact, the Bureau's written opinion and legal recommendation for the application did not specify the name and title of the staff who denied staff U's application and only indicated that the staff had left the post), the Bureau approved the application and issued the retroactive allowance. It showed that the screening procedure was perfunctory.

- g. Therefore, Bureau A should adopt adequate budgeting and financial management measures, should abide by the principles of fairness, selflessness, efficiency and decision making, and should strictly monitor the allowance granting and recovering procedures, so as to avoid administrative malpractices, perfunctoriness and practices that may violate the principles of the Code of Administrative Procedure.

#### *4. Bureau A followed obsolete regulations to handle housing and family allowances*

- a. Data obtained by the CCAC from Bureau A revealed that there was no stipulation in the current Specified Personnel Regulation on how the housing allowance was calculated based on rent or mortgage interest. During the time between the current Specified Personnel Regulation coming into force and the Administrative Instruction No. XX/XX/2002 becoming effective on 29 August 2002, there were no administrative instructions issued by Bureau A to regulate the issuance of allowances.
- b. Before the Administrative Instruction No. XX/XX/2002 became effective on 29 August 2002, Bureau A used to calculate its staff members' housing allowance on the basis of their rent or mortgage interest, and the maximum amount was MOP 1,000.00. The practice merely: 1) followed the obsolete Specified Personnel Regulation and Welfare Fund Regulation modified by the Administrative Instruction No. XX/85 of the former Bureau A; 2) was used to complement the unspecified points in the current Specified Personnel Regulation which were specified in the obsolete Specified Personnel Regulation of 1989.
- c. It is worth noting that on the issue of whether the staff members' housing allowance should be based on their rent or mortgage interest, Bureau A and its predecessor

used inconsistent approaches: a) before 1985 – there was no regulation concerning the issue in both Specified Personnel Regulation and Welfare Fund Regulation, nor were there administrative instructions; b) after the Administrative Instruction No. XX/85 of August 1985 came into effect – the Specified Personnel Regulation and Welfare Fund Regulation were modified stipulating that the housing allowance for staff members should not exceed their rent or mortgage interest; c) after the Specified Personnel Regulation of July 1989 came into effect – the limitation remained unchanged but was stipulated in the Regulation; d) after the Specified Personnel Regulation of January 1991 came into effect, there was no specified article concerning the issue.

- d. The practice of following obsolete administrative instructions and the Specified Personnel Regulation and the way of altering the approaches from time to time (sometimes there were regulations, sometimes there were administrative instructions and sometimes there was nothing) would surely raise suspicion about its legality. For instance, in the case of staff E (an applicant for housing allowance), staff J (an officer from the same affiliated legal affairs unit as staff E) wrote a recommendation on 30 July 2002, criticizing the affiliated finance and personnel unit of the Bureau for applying obsolete regulations instead of the Administrative Instruction No.X/XX/94 and the current Specified Personnel Regulation in handling the applications.
- e. Bureau A promulgated the Administrative Instruction No. XX/XX/2002 regulating the housing allowance. However, for other allowances, such as family allowance for children, there were still no clear regulations on application criteria and document requirements in the current Specified Personnel Regulation or Administrative Instructions. Thus, the obsolete ones were constantly applied in practice.
- f. Data obtained by the CCAC from Bureau A revealed that between 1983 and 2002 only nine out of the fourteen applications for family allowance for children and for nurturing allowance were submitted with their spouses' declaration of "no family allowance granted" or "no nurturing allowance granted" issued by their departments/institutions.
- g. Certain data revealed that after 1996, in the application forms submitted, it was stated that applicants for family allowance for children and for nurturing allowance

were required to attach their spouses' declaration of "no family allowance granted" or "no nurturing allowance granted" issued by their departments/institutions.

- h. However, the current Specified Personnel Regulation did not stipulate "no family allowance or nurturing allowance is received by the spouse" as an allowance application criterion, nor did it require the submission of "no family allowance granted" or "no nurturing allowance granted" issued by their departments/institutions at the time of application. Meanwhile, according to the data provided by Bureau A, in all the administrative instructions or notifications issued by either the Bureau or its predecessor to explain or supplement the Specified Personnel Regulation, there were no such regulation as "no family allowance of the same nature or nurturing allowance is received by the spouse".
- i. As a matter of fact, the criterion of "no family allowance of the same nature nor nurturing allowance is received by the spouse" for allowance application was stipulated in the Specified Personnel Regulation and Welfare Fund Regulation of the predecessor of Bureau A. However, these two regulations were replaced by the Specified Personnel Regulation and by the Welfare Fund Regulation enacted in 1989. The Specified Personnel Regulation of 1989 did not stipulate the criterion of "no allowance of the same nature is received by the spouse" and only required the staff to apply for the allowances according to the requirements defined by the administrative instruction. As for the "Welfare Fund Regulation", there were no criteria or document requirements for the staff members to apply for allowances.
- j. In other words, concerning the criteria and document requirements for the staff members to apply for family allowance for children and for nurturing allowance, Bureau A still applied the obsolete Specified Personnel Regulation and Welfare Fund Regulation modified by the Administrative Instruction No. XX/85 of the predecessor of Bureau A to supplement the points not clearly stipulated in the current Specified Personnel Regulation.
- k. The above situations tended to cause inconsistencies in the screening process (i.e. some applicants did not submit the declaration but were granted allowances). It raised reasonable suspicions about the fairness and legality of the practices of the Bureau.

- I. Therefore, Bureau A should systematically sort out the Specified Personnel Regulation and other relevant administrative instructions, and announce the effective ones to avoid inconsistent application criteria and lack of legal basis.

*5. Whether public servants renting apartments of the administrative authorities are eligible to apply for the housing allowance; for staff members of other institutions transferred to Bureau A, whether their former employment time can be counted into seniority allowance – the two issues involved the staff members' rights and interests, therefore Bureau A should enact regulations and provide clarifications*

- a. On 14 August 2002, legal advisor N of the affiliated legal affairs unit applied for the housing allowance based on the reason that he was paying 3%-4% of his monthly income for renting an apartment provided by Bureau A. At that time, officer J, who worked in the same unit and was responsible for writing legal recommendations and C, chief of the unit, did not analyze whether the case involved granting of “double welfare” and considered N eligible for receiving the housing allowance in accordance with the then effective Specified Personnel Regulation.
- b. However, the administrative committee disagreed with the legal recommendation. In its resolution No. 6 XX/XX of 4 September 2002, it pointed out that, since the rent N paid was below the market price, granting of any housing allowance would contradict the principle of justice. Thus, N's application was rejected.
- c. In other words, the case involved a legal issue – when a staff member (or a staff member's spouse) was renting an apartment provided by the administrative authority (including Bureau A), whether he or she was still eligible for the housing allowance. The standpoint of the administrative committee was completely different from that of the three staff members of the affiliated legal affairs unit and yet the Administrative Instruction No. XX/XX/2002 issued after the occurrence of this case still did not enact any regulations or provide clarifications concerning this legal issue.
- d. In the case of staff K applying for counting the time he worked for a bank before joining Bureau A into the seniority allowance, Bureau A initially rejected the application in 1996, but two years later in 1998, it approved the application. However,



both the rejection and the approval were based on the same article of the Specified Personnel Regulation and on the Administrative Instruction No. XX/XX/91.

- e. Nevertheless, the data provided by the Bureau did not reveal any justifications for the different interpretations of the Administrative Instruction No. XX/XX/91, nor did the Bureau issue any administrative instructions to clarify its standpoint.
- f. Under these circumstances, the Bureau's decisions, said to be based on the regulations and administrative instructions, were unconvincing, and might even raise doubts about the legality of the administrative committee's decisions. Therefore, Bureau A should enact regulations or provide clarifications on the issue of staff members' rights and interests and widely publicize them within the Bureau.

B. Several issues concerning public institutions with administrative, financial and property autonomy

*1. Public institutions' personnel regulations should be published*

- a. Bureau A, as a public institution with administrative, financial and property autonomy, and its recruitment, rights and obligations of personnel was regulated by its Specified Personnel Regulation (the Regulation was formulated and approved by the administrative committee of the Bureau and then recognized by a supervising body). Meanwhile, the administrative committee of Bureau A has the right to supplement or interpret the Specified Personnel Regulation through administrative instructions.
- b. However, none of the Specified Personnel Regulation, its amendments and the administrative instructions issued to supplement or interpret the Regulation had been published in the Official Gazette of the Macao SAR. In other words, despite Bureau A being part of the public administration and its staff providing services to the public administration, the public had no idea about its recruitment criteria and procedures, rights (i.e. salaries and benefits) and obligations. Consequently, there was no public monitoring.
- c. Moreover, the current law did not compulsorily require Bureau A to submit its administrative instructions on supplementing or interpreting the Specified Personnel Regulation to the supervising body – Secretary X, or to a specific department for

record keeping. In this situation, it was difficult to ensure that the supervising body kept a complete and updated file of the personnel regulations of the public institution and the information of its relevant supplements and explanations.

- d. Bureau A told the CCAC that the administrative instructions interpreting and supplementing the Specified Personnel Regulation had not only been distributed to its different departments, but also been posted on the Bureau's intranet for the staff's reference. However, as mentioned in this case, even though the Bureau had announced the administrative instructions internally, it did not systematically sort out all those instructions and so the staff could hardly tell the obsolete ones from the valid ones. It is worth noticing that even staff members of Bureau A's finance and personnel unit responsible for processing applications for allowances had applied obsolete regulations or administrative instructions, causing the staff members more doubts about their legitimate rights and interests.
- e. In addition, when the administrative committee made a resolution on certain obscure legal issues involving the Specified Personnel Regulation or an administrative instruction, it did not always explain the legal issues or inform its staff members through formulating and publishing administrative instructions. In other words, Bureau A did not adopt proper measures to ensure the staff members' clear understanding of their rights and obligations.
- f. In short, since there were no compulsory requirements for a public institution like Bureau A to publish its personnel regulation in the Official Gazette of the Macao SAR, nor was there a legal mechanism to collect and register such information, it was impossible for the public (even for the supervising body) to clearly know its personnel system, let alone to monitor it. On the other hand, as the staff members were not well informed by the public institution, they might misunderstand their rights and interests and might easily incur "differential" or "tailor-made" treatments, which were against the principles of fairness, justice and openness. Therefore, the personnel regulation of the public institution should be published.

*2. Interpretations and supplements of a public institution's personnel regulation should not be controlled by the party involved; an external monitoring mechanism should be in place*

- a. Bureau A's Specified Personnel Regulation defined the rights and obligations of

the staff and was interpreted and supplemented by its administrative committee. In practice (as seen in this case), when staff members' applications involved the obscurities (or grey areas) of the Specified Personnel Regulation, a legal advisor of the Bureau normally would give a legal recommendation to interpret the Regulation, then the administrative committee would make the decision. In some cases, the committee would issue administrative instructions to interpret or supplement the Regulation or to define the application of its interpretation or decision.

- b. In principle, the above screening procedure was not unreasonable since all regulations are abstract to a certain degree. When there are uncertainties about whether the actual cases are in conformity with the regulations, it is understandable and necessary to consult for legal recommendation and, when necessary, to interpret or supplement the personnel regulations through administrative instructions.
- c. However, it is worth noting that the staff member who gave the legal recommendation was also a member of Bureau A and was regulated by the Specified Personnel Regulation. The administrative committee member, as a superior, was also regulated by the Specified Personnel Regulation according to his contract.
- d. In other words, when the legal advisor interpreted the obscurities (or grey areas) of the Specified Personnel Regulation, he might have, directly or indirectly, considered his present or future rights and interests, or those of his colleagues or even of his superior – the administrative committee member.
- e. In this case, although no legal advisor was found to have given legal recommendation related to his self-interests, it was a common practice for a legal advisor to write legal recommendations for his colleagues working in the same unit. In one of the cases, N, an advisor to the legal affairs unit, applied for housing allowance based on the reason that he was paying 3-4% of his monthly income for renting an apartment provided by Bureau A. It was obviously a case of "double welfare". However, the two staff members of the legal affairs unit not only failed to point out the problem, but even approved and recommended the authority to grant the housing allowance to N. It raised reasonable doubts about the objectivity of their recommendations.

- f. Furthermore, as mentioned above, the administrative committee members of Bureau A were also regulated by the Specified Personnel Regulation according to the contract. In other words, when legal advisor J was requested by his superior to write a legal recommendation, or to draft a resolution or an administrative instruction concerning an issue that might involve the interests of the superior (as R in the situation mentioned above), the objectivity and fairness of the legal recommendation would be questionable.
- g. Since the Specified Personnel Regulation was formulated particularly for the Bureau, the related legal recommendations could not be compared with those of other departments. In addition, there was no mechanism for the “grey areas” in the Specified Personnel Regulation to be interpreted by a specific department. The right to interpret and supplement the Regulation was completely possessed by the parties to whom the Regulation applied, putting the objectivity and fairness of the interpretations and supplements in doubt.
- h. As a matter of fact, the cases mentioned above would not happen to a general public administrative department, since the rights and obligations of the latter were regulated by the legal system governing public services. When a department encountered “grey areas” in the administrative process concerning applications, it would also consult an internal legal advisor. However, the legal recommendation or practice could be compared with similar ones of other departments to judge if it is “exceptional”. Furthermore, regarding the interpretations of the “grey areas”, the Public Administration and Civil Service Bureau and the Finance Services Bureau generally used “official notice” (Oficios-Circulares) to provide a uniform interpretation to all departments to ensure objectivity and fairness. In short, the situations in which the “grey areas” could be interpreted directly by the superiors or by the legal advisors appointed by them would never happen in a general public administrative department.
- i. Therefore, for those public institutions with special personnel regulations, the right to interpret and supplement their regulations should not be completely possessed, without a monitoring mechanism, by the parties to whom the regulations applied. Otherwise, the objectivity and fairness of the interpretations and supplements would be put in doubt.

### 3. *Public institutions' recruitment procedure should be clearly stipulated*

- a. The recruitment procedure of Bureau A was defined by the Specified Personnel Regulation, not by the legal system governing public services.
- b. The staff members of Bureau A were classified into public servants on regular payroll and on contract. According to the Specified Personnel Regulation, unless disciplinary infringements were found, Bureau A could not dismiss any staff members. In other words, the staff members, especially those on regular payroll, had a relatively stable relationship with the Bureau.
- c. According to the Specified Personnel Regulation, Bureau A should recruit its staff members through "external selection" (abertura de concurso externo). However, it did not clarify that the "external selection" was only for the public servants on regular payroll. As for the "selection" (concurso), evaluation by examination (prestação de provas) was not compulsory and the selection procedure was not stipulated in the Specified Personnel Regulation. In addition, according to the same Article Item 2, in exceptional cases with justifiable reasons, Bureau A might employ officers or assistant officers of category 3a without going through the external selection process, as long as their professional qualifications met the requirements of the regulation.
- d. In other words, for both staff on regular payroll and staff on contract, Bureau A might decide different procedures, selection methods and criteria for different recruitments, or even might not go through the "external selection".
- e. In principle, it was necessary to establish a set of strict and detailed regulations on staff recruitment, which should allow the department to take a simpler approach to meet its short-term or urgent needs in exceptional cases. Such practice is acceptable in the current public servant recruitment system. In the General Regulations

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<sup>4</sup> No. 2/2001 Instruction of the Secretary for Administration and Justice, Article 3: "When recruiting staff members, there should be a reasonable number of candidates. Special consideration should be given to the potential candidates who are self-recommended and who have registered themselves with the Public Administration and Civil Service Bureau, from which the government departments should obtain the list of the qualified registrants from the Bureau."

<sup>5</sup> No. 2/2001 Instruction of the Secretary for Administration and Justice, Article 4, Clause 2: "All candidates shall take knowledge examination, except those who have been exempted by the supervising body based on the relevant department's recommendation with justifications."

Governing the staff of the Public Administration of Macao, although there was a set of strict regulations on the recruitment procedure, departments were allowed to recruit staff on contract basis without strictly following the procedures prescribed in the General Regulations. However, even in such exceptional cases, the departments were required to follow the instruction of the Secretary for Administration and Justice (No. 2/2001), including regulations on the source of candidates (4), evaluation by examination (5) and so on.

- f. However, in this case, the Specified Personnel Regulation of Bureau A did not even stipulate clearly the procedure for general recruitment, i.e. recruitment through “external selection”, and thus might result in lacking equality and justice in the recruitment process. For example, in applicant L’s case, even though L did not meet the minimum criterion before the application deadline, he was invited to the interview, while some qualified applicants were eliminated early. Later on, despite applicant L having given up the opportunity for examination, all other candidates having completed the interviews and the Bureau having got at least three candidates with over 60 marks (passed), candidate L was given another opportunity for examination by writing to former administrative committee member R and was consequently hired.
- g. As a matter of fact, according to the entrance examination procedure for general public servants, candidate L should have been eliminated in the very beginning. Even if the candidate had been allowed to take the examination due to overlooking his qualifications and was consequently employed by the department, the employment decision would still be invalid (6). Furthermore, candidates who were absent from or gave up the examination would automatically be eliminated; there was no possibility for the candidate to re-take the examination (7).
- h. There was no stipulation in the Specified Personnel Regulation requiring Bureau A to follow the recruitment procedure stated in the legal system governing public services to publish the name list of candidates and the evaluation sheet. The lack

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<sup>6</sup>The General Regulations Governing the staff of the Public Administration of Macao, Article 16, Clause 2

<sup>7</sup>The General Regulations Governing the staff of the Public Administration of Macao, Article 62, Clause 9.



of transparency might cause unfair procedures which the candidates could hardly detect or complain in time.

- i. Finally, the Specified Personnel Regulation did not stipulate a general recruitment procedure, nor did it establish any monitoring mechanism (such as authorization by a supervising body) for exceptional cases – employment of officers without going through an external recruitment process, nor was there a monitoring mechanism (such as would be permitted by a supervision body). In other words, Bureau A could employ staff members on regular payroll by any means and standards without going through any external selection procedures or a supervising body.
- j. In fact, the recruitment procedure of the public institution was an administrative procedure and should abide by the Code of Administrative Procedure, especially by its principles of equality and fairness. Therefore, despite being permitted to simplify the recruitment procedure to a certain degree, the public institution should still clearly stipulate a clear and open recruitment procedure, so as to conform to the Code of Administrative Procedure and avoid violating the principles of equality and fairness.

Based on these, the CCAC has taken the following measures:

- a. It has recommended Bureau A to strictly abide by the principles (such as fairness, selflessness and equality) and regulations (such as recusal system) of the Code of Administrative Procedure in the procedures of granting allowance, recovering allowance and personnel recruitment, and to include these principles and regulations in its internal guidelines. Furthermore, the Specified Personnel Regulation and all the administrative instructions issued over the years should be reviewed and sorted out systematically and the valid ones should be announced. Finally, the legal issues related to the staff members' interests should be regulated, interpreted and announced.

- b. Since the case occurred in a public institution with administrative, financial and property autonomy, certain issues worth noticing might be summarized to provide implications for public institutions of this kind. Therefore, the CCAC also recommended the Macao SAR government to take a number of improvement measures, including: requiring public institutions to publish their personnel regulations and establishing an external mechanism to

monitor the interpretations and supplements of the regulations, so as to ensure fairness and objectivity and avoid potential conflicts of interest; stipulating a clear personnel recruitment procedure for public institutions to optimize their administrative operations.

Regarding the CCAC's recommendations, Bureau A expressed its willingness to follow up on each of the occasions stated in the CCAC's report to review and optimize the relevant policies and procedures. In addition, the Bureau had assigned the relevant department to study the CCAC's report and to review its internal personnel management.

## II. File No. 50/2005

Subject: Disciplinary monitoring mechanism for directors and chiefs

When handling a case, the CCAC discovered that director C and chief H in Bureau L had given their own cars to an affiliated unit for car repairs. It had clearly involved private interests; however, the two did not follow the Code of Administrative Procedure to report the "event of recusal" to their superiors, so the CCAC handed over the case to the Bureau. Regarding whether the case had constituted inaction of "duty of recusal", the supervising body began an investigation according to the disciplinary procedure. Subsequently, the supervising body agreed with the recommendations of the pre-examiner for disciplinary procedure and to file the case and instructed the Director of Bureau L to give the two staff members verbal reprimands as warnings. However, after thorough investigation, CCAC discovered many flaws in the pre-examiner's report in terms of both facts and legal basis. Considering the seriousness of the disciplinary procedure, the case was reopened.

1. Whether the fact that director C of Bureau L and chief H of its affiliated vocational training centre (thereafter "Centre") had given their cars to the Centre for repair had constituted inaction of "duty of recusal", the pre-examiner believed that the basis for argument was whether the Centre's procedure of allowing the private cars to be used for repair demonstration was in conformity with the Code of Administrative Procedure.

2. The pre-examiner believed that, since the internal guidelines of the Centre had not been formulated, there was no rule to follow and so the issue had to be solved by the course director and the chief of the Centre. In order to allow students in the bumper-repairing and car-painting courses to master practical skills, it was necessary to provide them with vehicles.

It was reported that, since the wrecked vehicles provided by the Civic and Municipal Affairs Bureau could not achieve satisfactory teaching effects, it was necessary to use operational private vehicles for training.

3. However, apart from private vehicles, there were also operational vehicles of public bodies, but the pre-examiner did not analyze why the Centre had chosen the former instead of the latter for training.

4. If the Centre had chosen to use public vehicles, it might use those of Bureau L or borrow from other departments in consideration of their needs of car usage. Borrowing vehicles from other departments required permission of the departments concerned and might cause inconveniences in practice. However, the pre-examiner did not analyze the feasibility of using the public vehicles of Bureau L.

5. Furthermore, even if the Centre had sufficient reasons to support the decision of using private vehicles for students to practice, and there was an agreement between the Centre and the private vehicle's owners, could these be interpreted as a "manifestation of intention of administrative authority" like the pre-examiner said? The so-called "agreement" referred to the understanding mentioned by the pre-examiner that different vehicles could make students more interested in the practice and with the willingness of a private vehicle provider, negotiations might be made equally between the two sides for student practice.

6. The Centre collected private vehicles only from the students. The students had to submit applications, which would be screened and approved by the Centre. The procedure had been done in writing since 2003. However, the pre-examiner did not analyze the decision of the Centre.

7. Could the Centre's approvals and the students' applications for providing their private vehicles for practice be considered as "the manifestation of intention of the administrative authority"?

8. If "teaching needs" could be a sufficient reason for arranging private vehicles for student practice, or even be an appropriate reason for "choosing directors' and chiefs' private vehicles for repair demonstration", then the students' products (either services or tangible products derived from services and materials) generated from practice in any vocational training courses could be transferred by the training centre to the directors and chiefs for their private use

under the name of “teaching needs” and “saving resources”! Therefore, the “teaching needs” mentioned by the pre-examiner could only be a sufficient reason for the Centre to arrange “un-wrecked vehicles” for student training. Since the pre-examiner did not further analyze whether there was a sufficient reason for the Centre to choose the director’s and the chief’s private vehicles for demonstration, his argument was unconvincing.

9. The pre-examiner admitted that using private vehicles for the repair practice might result in “using public resources for private interests”. However, he indicated that, since spending the Centre’s resources on private vehicles was more suitable than on wrecked vehicles and could enhance teaching effects, the advantages outweighed the disadvantages. Nevertheless, the pre-examiner did not further analyze other alternatives (weighing both advantages and disadvantages) or prove that there was no alternative (e.g. unable to collect private vehicles through other channels to meet the Centre’s teaching needs) but to use the director’s and the chief’s private vehicles.

10. On the other hand, the instructor indicated that “under normal circumstances, no one is willing to offer a private vehicle to unskilled students for practice”, but did not provide any objective evidence.

11. The facts showed that students of the Centre considered it appropriate and safe to lend their private vehicles to the Centre for practice, then it raised the question: apart from students of the Centre, were all other people “under normal circumstances” as stated by the pre-examiner? That is, was it because all other people had no idea about the teaching qualification, equipment and operations of the Centre, so only the students were willing to offer their own vehicles for practice?

12. In fact, the Centre possessed qualified trainers and sufficient equipment and provided assistance to the students during practice. It was impossible that the staff members of Bureau L, especially those working in the Centre, had no idea about the conditions of the Centre. How could it draw the conclusion that if the Centre could not collect vehicles from the students to meet its “teaching needs”, there was no alternative but to use the director’s and the chief’s vehicles?

13. The two staff members involved in this case were the former head and the current head of the Centre, who were supposed to have better knowledge of the Centre than that of

the students. Furthermore, if the trainers of the Centre were aware that the vehicles for practice belonged to the superiors who had the right to decide on the renewal of their contracts, they would normally pay special attention to the vehicles. Therefore, it was obvious that the owners of the private vehicles had benefited from public duties (repair practice in this case).

14. It should not be ignored that a public servant ought to observe the obligation of selflessness of “not pursuing, directly and indirectly, any personal gains that are not permitted by law when exercising their official duties” and should contribute to the reputation of the public administrative authority. As department heads, they should ensure that the above obligation was observed by themselves and also by their subordinates. Although it was obvious that the vehicle owners had benefited from public duties (repair practice), the Centre still made such arrangements, raising reasonable suspicions about abusing public power for personal gains. Would it affect the reputation of the administrative authority? When it could not be proven that arranging such private vehicles for repair practice was the only option, how could such arrangement be judged as “advantages outweighing disadvantages”? The pre-examiner failed to make an analysis in this matter.

15. The pre-examiner also pointed out that chief H and director C agreed to send their vehicles to the Centre for demonstration merely under the status of vehicle owners. The decisions of approval were made by a section head of the vocational training department and the chief of the Centre respectively. However, the pre-examiner overlooked the fact that both decision-makers were subordinate to the vehicle owners. One of them made the decision to use his superior’s private vehicle for student practice and, at the same time, offered his own vehicle for student practice.

16. In fact, decisions on unregulated issues involving a superior’s interests should not be made by a subordinate. Otherwise, the hierarchical structure of the department would be overturned, fostering a “flattering culture”, impairing the reputation of the department or even of the administrative authority and damaging the integrity building of the whole administrative system.

17. In addition, the pre-examiner had also made mistakes in the application of the recusal system when forming the basis for his arguments. According to the Code of Administrative Procedure, Article 46, Clause 1a, in case of conflicts of interest, public servants should not be involved in the administrative procedure, nor should they participate in any actions

or contracts of public law and private law. In other words, the pre-examiner had mistakenly confined the application of the article to the administrative procedure.

18. In this case, the practice of using the students' private vehicles for teaching demonstration in the Centre was not based on students' own willingness or on the private agreements between students and trainers, but had undergone a set of screening procedures where the approving body and the applicants were not in equal positions. Since the approving body executed public power during the process, the practice should not be excluded from the application of the recusal system. In fact, according to the Code of Administrative Procedure, actions in private law (without exercising public power, in the same position as a private individual) should also be regulated by the recusal system.

19. In the pre-examiner's views, since the power of the head of the Centre in screening private vehicles for student practice was neither granted by law nor obtained through empowerment, it was not the "manifestation of intention of the administrative authority" and did not have any "legal consequences according to the public law"; rather, the power "was derived from the teaching needs of the courses and was decided within the teaching autonomy". If the pre-examiner's inference were right, then it would not have been necessary for the Code of Administrative Procedure, to classify "the flawed acts of exceeding one's power", "acts of overstepping one's authority as a legal person" as typical invalidated acts, which would not result in any legal consequences stipulated in the Code of administrative Procedure, especially that "certain facts generated from the invalidated acts would not be empowered with certain legal consequences, regardless of the time elapse and any legal principles", since "it would not have any legal consequences according to the public law". Obviously, the pre-examiner's reasoning lacked legal basis and was unconvincing.

20. Although the pre-examiner's recommendation of filing the case was derived from taking into consideration all alleviating factors, there were also aggravating factors in the case, such as violation of the duty of selflessness, which had impaired the image and reputation of the department. Regrettably, the pre-examiner did not mention the two staff members' ability to predict the outcomes of their conduct or the infringers' official responsibilities and academic backgrounds. If the pre-examiner did not consider the aggravating factors together with the alleviating ones, could his recommendation of filing the case still be appropriate and convincing? It showed that his recommendation lacked convincing legal basis.



21. The above situations revealed some deficiencies in the current disciplinary system and in the disciplinary procedures of the government. Therefore, it was necessary to improve the relevant administrative procedures and operations to ensure that the legal and factual investigations and analyses be carried out strictly and objectively. To this end, the CCAC conducted in-depth research and submitted to the Chief Executive the report – Several Issues Concerning Disciplinary System. The report pointed out that in order to safeguard the objectivity and consistency of our disciplinary procedure and to strengthen the related supervision, it is imperative to introduce a mechanism of independent collegial panel (such as “disciplinary committee”) for judging infringement cases, especially those involving high-rank officials (directors, chiefs and equivalents).

22. The disciplinary procedure involved in this case implied the necessity for the Macao SAR Government to study the feasibility of establishing a special committee to ensure effective management of public servants, keep rewards and punishment clear-cut and maintain the staff morale, so as to achieve the objective specified by the Macao SAR Government Policy Report 2006: “ .....the departments at mid-upper levels involving interests of significance and easily being derailed from administrative regularities need strengthened supervision so as to avoid irregularities and impairment of public interests”.

23. Based on these, the CCAC took the following measures:

a. Recommended the Secretary for Economy and Finance to pay attention to the disciplinary procedures for public servants, especially to those involving directors and chiefs, within his jurisdiction and to require the pre-examiners to be circumspective in analyzing the legal and factual evidence, so as to ensure justice, selflessness and protection of duties of public service in dealing with disciplinary cases of public servants; to ensure rules for rewards and punishment will be kept, the staff morale maintained, and the authority’s reputation protected.

b. Recommended the Chief Executive to conduct researches on monitoring of the disciplines of directors and chiefs, especially on the feasibility of establishing a special committee to optimize the current mechanism, which would facilitate the implementation of the objective specified in the above-mentioned Policy Report.



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