

# **Part II**

## **ANTI-CORRUPTION**





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#### I. Numbers of reports and cases commenced for investigation

In 2011, the CCAC received a total of 398 criminal reports<sup>4</sup>, including 262 cases qualified for preliminary handling. Together with the 49 cases carried over from the previous year, the CCAC had to process a total of 311 criminal reports in 2011.

The CCAC commenced a total of 112 criminal cases for investigation in 2011, more than the 88 cases in 2010, which is mainly due to an increase of reports about bribery in the private sector, where 45 cases were commenced.

Regarding criminal cases, by December 2011, investigation of a total of 64 cases were completed and the cases were referred to the Public Prosecutions Office or archived accordingly.

#### CRIMINAL CASES RECEIVED FROM 2009 TO 2011

Statistics	2009	2010	2011
Total number of case recorded	923	681	804
Criminal reports	768	389	398
Criminal cases qualified for handling	107	133	182
Commenced cases	44	88	112

<sup>4</sup> Some of the complaints involve both administrative illegalities and criminal reports. Therefore, one complaint may result in a file for criminal investigation and one for administrative complaint investigation.

## **II. Summary of some of the cases investigated by the CCAC**

### **Case 1:**

The suspect was a leadership of the Cultural Affairs Bureau who allegedly violated the functional obligations of impartiality and confidentiality by deliberately revealing the quotations offered by other bidders to his/her relative in several bidding procedures and enabling the latter to adjust the quotations of his/her company through revising the relevant proposals. As a result, his/her relative's company was awarded the contracts of daily maintenance services for the premises under the Cultural Affairs Bureau. The public servant has allegedly violated the regulation of compulsory recusal many times by participating in the procedures of contract awarding in tenders where his/her relative was one of the bidding parties. He/She was also suspected of committing irregular acts related to the development of cultural industry.

After collecting evidence and investigating, the CCAC has arrested the suspect and referred the case to the Public Prosecutions Office (MP). Following analysis of the case and evidence, the MP considered that there were clear signs showing that the suspect had allegedly abused his/her power. Therefore, coercive measures were taken against the suspect as proposed to and approved by the judge. The measures included recording his/her identification documents and his/her home address, demand for bail and prohibition against contact with relevant parties, etc.

### **Case 2:**

The CCAC received a report of suspected money laundering.

Since there was no sign showing existence of corruption and fraud related to public servants, the complaint against money laundering and relevant information has been referred to the Financial Intelligence Office for follow-up. At the same time, the illegal acts committed by a police officer of the Public Security Police Force (PSP) discovered during the investigation have been reported to the PSP.

Subsequently, the CCAC was notified by the PSP that disciplinary action had been taken against the police officer.

**Case 3:**

The CCAC received a report from a citizen, alleging that his/her friend had been used by a company to launder illicit money or pay bribes.

The result of the investigation showed that the bribery case which might involve the private sector and the methods of money laundering mentioned by the complainant were merely his/her assumption and suspicion. The alleged crimes were groundless and there were no concrete details and targets. The money laundering methods did not accord with the facts.

The report was not related to corruption and fraud committed by public servant. Although it might involve corruption in the private sector, the facts happened in 2008, before the law *Prevention and Suppression of Bribery in the Private Sector* entered into force. Therefore, the CCAC archived the case.

**Case 4:**

The CCAC broke a case of bribery in the private sector and arrested six suspects, of whom two were from Hong Kong and four were from Mainland China. One of them was an executive of a construction company in Macao.

According to the intelligence obtained, the CCAC suspected that a senior staff of a local construction company took advantage of his position to receive illicit advantages in the process of recruitment of construction workers, contravening the rules of the company.

The CCAC commenced an investigation and evidence search and subsequently arrested six suspects in an operation. The evidence showed that the senior staff recruited workers from Mainland China via five non-resident foremen and solicited around MOP2,000 to 4,000 from each of the candidates as entry requirement. The act has allegedly violated the rules of the company and Paragraph 1 of Article 3 of the law *Prevention and Suppression of Bribery in the Private Sector* – passive bribery in the private sector.

During the investigation, the CCAC discovered that some people, by using the excuse that the construction project was done on an outsourcing basis, embezzled MOP50 per day and part of or the entire bonus for every non-resident worker and claimed that the money served as the guarantee that they would not be laid off arbitrarily and the fee for assigning them better duties. These acts have allegedly constituted fraud. It was also discovered that some people had kept the ATM cards and passwords of the non-resident workers' payroll accounts. It was also discovered that the workers were threatened with violence or dismissal and were forced to pay a certain amount of money every month. Such acts have allegedly constituted menace.

The case involved around 70 non-resident workers who were solicited for entry fee and suffered from embezzlement of wage and bonus. The sum amounted to around MOP700,000 in total. The case was referred to the Public Prosecutions Office.

#### **Case 5:**

The CCAC received a report from an employee of a company, indicating that the company was in arrears of bonus for a few months, while the owner of the company said that the bonus had been passed to a supervisory staff for distribution. Therefore, the complainant suspected that the supervisory staff engaged in corrupt acts.

During the investigation, it was discovered that the company authorized the supervisory staff to be in charge of the distribution of bonus. Therefore, he/she was empowered to decide the amount of bonus for every employee and even who would not get the bonus. Since the complained party neither got any advantage of the distribution of bonus nor breached the code of conduct, the corruption mentioned in the complaint was groundless and subsequently the CCAC archived the case.

**Case 6:**

The CCAC received a report alleging that the manager of the security department of company A abused his/her power by overstating the working hours of the temporary security guards dispatched by a security company B in order to gain illicit benefits.

During the investigation, it was covered that A and B had signed a cooperation agreement, under which B provided security guards for A on a temporary basis, while A paid a certain amount to B for the service. The contract also stipulated the minimum daily working hours of the security guards. In fact, the working hours allegedly overstated by the manager had already included the minimum working hours and did not exceed the maximum working hours under the contract. Since there was no sign of and ground for the suspicion that the manager had received any advantage, the CCAC archived the case.

**Case 7:**

There was a complaint indicating that property administration company X won the contract outsourced by company Y. Y then offered X a sum as bonus for X's employees, but X did not distribute the "bonus" to some of the staff. Therefore, some staff members suspected that A had embezzled the money.

During the investigation, it was discovered that there was a condition that X had to meet when Y offered the "bonus" to X's employees. The rules of distribution of the bonus were totally determined by the chief of Y and X should follow the rules. Some of the staff members of X, indeed, did not meet the requirements and thus were not offered the "bonus". X did not embezzle the money. Since the crime mentioned by the complainant did not exist, the CCAC archived the case.

### **Case 8:**

The CCAC received a report alleging that a casino made use of its partnership with a local gaming company and treated the dealers dispatched to station at the casino as local workers it employed and requested them to fill out the entry forms and provide personal data, which were thus submitted to the Human Resources Office in order to apply for a large number of quotas for non-resident workers. Moreover, it was reported that the application had been approved.

During the investigation, it was discovered that all gaming companies could not hire non-residents as dealers. Therefore, it is impossible to apply for quotas for non-resident workers to fill in other positions based on employment of a certain number of dealers.

The guidelines on the procedure of application for non-resident labour specify that it requires the pay-in slips of contributions to the Social Security Fund submitted by the employer. Therefore, the companies intend to apply for the quotas have to submit the documents of contributions in order to prove that they have local employees. In this sense, only personal data is not sufficient to fulfil the requirement. Since no illegal act was found, the CCAC archived the case.

### **Case 9:**

The CCAC received a report from a trustee of a private construction project management company, alleging that the senior project manager of the company solicited bribe from a staff of one of the companies that participated in the bidding for a contract in exchange for confidential commercial information about the contract.

It came to light in the investigation that the project manager was in charge of the bidding and evaluation of a construction project and thus obtained the reports of the bidding proposal by consultancies, which covered confidential information such as preliminary quotations and the merits and shortcomings of the bidding companies.



The suspect met a staff of one of the bidding companies and asked for a reward amounting to 1% to 2.5% of the total cost of the project (the reward was around MOP1 million to 2 million) in exchange of the confidential information, but the latter rejected the request immediately.

The manager allegedly violated the law *Prevention and Suppression of Bribery in the Private Sector* and the case was referred to the Public Prosecutions Office.

#### **Case 10:**

Following investigation and evidence collecting over a period of time, the CCAC carried out an operation, in which four auxiliary staff members of the Hospital Conde S. Januário who were suspected of bribe accepting and two alleged bribers were taken to the CCAC for investigation. Moreover, a number of auxiliary staff were asked to assist in the investigation.

Evidence showed that the four auxiliary staff members mentioned above colluded with some individuals running funeral business in an organized and systematic way for a long time. First, they introduced some funeral business operators they were familiar with to the relatives of the deceased. After they paid the relevant funeral service fees, the auxiliary staff solicited rewards amounting to about MOP2,500 each from the operators. During the operation, the CCAC seized the relevant account records and other evidence.

The CCAC also discovered that some other auxiliary staff of the hospital had violated the law by entering casinos several times for gambling.

The suspects have allegedly committed the offence of “receiving bribe for performing licit acts” and “active bribery” under the *Penal Code*. The case was referred to the Public Prosecutions Office upon completion of the investigation.

### Case 11:

The CCAC received a report alleging that a dermatologist of the Hospital Conde S. Januário referred his/her patients to a beauty care centre owned by his/her spouse to receive treatments and worked for the centre during sick leave. Also, he/she used the items that belonged to the hospital at the beauty care centre.

During the investigation, it was discovered that the dermatologist had many times introduced the beauty care treatments provided by the centre to his/her patients and distributed its name cards. Moreover, the suspect also went to the centre to provide medical opinions and introduced treatments to the clients and thus received medical fees without approval by the Hospital Conde S. Januário or the Health Bureau.

The dermatologist has allegedly violated the principles of exclusiveness and impartiality stipulated by the *Statute of Personnel of the Public Administration of Macao*. The CCAC reported the case to the Health Bureau, which subsequently commenced disciplinary proceedings against the dermatologist.

### Case 12:

The CCAC received a report alleging that a staff of the Department of Gardens and Green Areas of the Civic and Municipal Affairs Bureau (IACM) had a close relationship with the owner of a horticultural company which always bid for the contracts outsourced by the IACM, suspecting that there was favouritism in the procurement procedure.

During the investigation, it was discovered that the public servant started a relationship with an executive of the company since 2008.

The public servant always participated in bid evaluation. There were 14 projects awarded to the company, of which the staff was involved in the bid evaluation. In 10 among the 14 projects, the public servant worked as member or the president of the bid evaluation committees. As for the remaining four, he/she was responsible for writing the proposals for evaluation criteria. The CCAC found that in the process of bid evaluation, the staff deliberately concealed the close relationship between them, which contravened the provisions of recusation prescribed by the *Code of Administrative Procedure*. Moreover, according to the criteria proposed by the staff, experience constituted an important part of the grade. In this sense, the company was

favoured, leading to suspicion of partiality.

The staff allegedly violated the stipulation about self-resusal under the *Code of Administrative Procedure* and the obligations of impartiality and loyalty of public servants. The CCAC reported the case to the IACM that subsequently commenced disciplinary investigation.

Moreover, the CCAC raised opinions to the IACM about the possible loopholes existing in the grading criteria of bid evaluation of outsourced contracts, which may cause the monopoly of a certain bidder, and urged the latter to review the relevant criteria.

### Case 13:

The CCAC received a complaint against a public servant who was suspected to work illicitly at a piano studio at the central district during weekend and in the afternoon and at night during weekdays on a part-time basis.

During the investigation, it was discovered that the public servant worked as a teacher at a government school under the Education and Youth Affairs Bureau (DSEJ) between 1995 and 2008. Later, he/she shifted to the Cultural Affairs Bureau (ICM) in October 2008. Between October 2007 and 1<sup>st</sup> June 2009, the public servant, without approval by the DSEJ or the ICM, worked as musical instrument teacher of extracurricular activities at a local secondary school and received MOP1,200 as monthly reward. Moreover, since 2004, the public servant had been teaching irregularly at the piano studio owned by his/her father and the musical centre run by his/her spouse occasionally.

The public servant has allegedly breached the principle of exclusiveness stipulated by the *Statute of Personnel of the Public Administration of Macao*. The CCAC reported the case to the ICM, which subsequently commenced disciplinary proceedings and issued a written warning against the public servant.

#### Case 14:

The CCAC received a complaint from a woman, E, over some plainclothes police, who were suspected of power abuse as the complainant said that they took her to police station many times without any reason and penalized her with fine by falsely accusing her of breaching the *General Regulations Governing Public Places*.

It is discovered in the investigation that E's job was to distribute handbills of massage service with pornographic allusion near casinos. In fact, the police have been striving to suppress prostitution. They have broken pimping gangs according to the information on the handbills for a multiple times, while the people responsible for distribution of the handbills were related to the crimes. With reasonable suspicion, the police have the power to request any people for assistance in investigation. The CCAC also found that some people who distributed such handbills deliberately dropped them at flowerbeds or streets, breaching the *General Regulations Governing Public Places* and liable for fine. Therefore, the police have the power to prosecute them. Since the case mentioned by the complainant was merely the result of the performance of ordinary duties by the police, and, without any evidence of illegal and irregular situations, the CCAC archived the case.

#### Case 15:

The CCAC received a report from a hotel, alleging that the supervisor of one of its restaurant, A, secretly requested the cook, B, who was a local, to offer part of his/her. salary every month to a staff, C, who came from Mainland China, when offering B the job. Therefore, it is suspected that some people have violated the law *Prevention and Suppression of Bribery in the Private Sector*.

During the investigation, it was discovered that A and B had reached the private agreement, but such practice was a tradition followed by old-style restaurants and it did not involve any illicit benefits. Since there was no evidence proving breach of the law *Prevention and Suppression of Bribery in the Private Sector* and the *Penal Code*, the CCAC archived the case. However, A has violated the internal rules of the hotel and thus was dismissed.

**Case 16:**

The CCAC received a report alleging that a public servant, E, was absent without authorization and defrauded over shift allowance when he/she worked as the supervisor of a public department.

During the investigation, it was found that the shift allowance received by E when he/she worked in the position as supervisor accorded with the *Statute of Personnel of the Public Administration of Macao*. Also, E was not absent from his/her duty without authorization when working on shift. In fact, the time of E's on-shift duty was different from that of another staff who used to work for the same job, leading to the complainant's misunderstanding. It was proven that there were no unauthorized absence and fraud over shift allowance. Therefore, the CCAC archived the case.

**Case 17:**

The CCAC received a report alleging that A, the chief of a management company which provided health care service for staff of large companies, conspired with a medical practitioner, B, to solicit kick-back from the doctors who participated in the health care service network managed by the company as the fee for introducing them to join the network.

During the investigation, it was found that A, who was in charge of the health care service management company, requested B to recommend doctors to join the network, but they did not have employment relation with each other. B has introduced a few doctors to A and dealt with the administrative routines on behalf of them and therefore received administrative charge from them every month. Since the case did not involve bribery and illegal taking, it was archived. During the investigation, B stopped doing the administrative work for the doctors in order to avoid misunderstanding and thus no longer received the charge.

### **Case 18:**

The CCAC received a report alleging that some people were bribed in the course of the ballot for market vendor booths, resulting in certain people being granted particular booths.

The ballot held by the IACM was held publicly. Before the ballot took place, the list of applicants and the date, time and venue were publicized in order to let the general public and the media oversee the ballot. The guests would count the number of application forms and then put them in a transparent box. Subsequently, the guests would draw the winners and the staff of the IACM would call the winners' names and read their personal data aloud. At the same time, the information would be displayed on a screen for the audience. The process was transparent, leaving little possibility for manipulation of balloting results. Based on the balloting procedure and the operation of waiting system for market vendor booths, the CCAC found that the report was groundless. Therefore, the case was archived.

### **III. Mutual case assistance in cross-border investigations and judiciary assistance**

#### **(1) Requests for case assistance to CCAC from law enforcement agencies outside the territory**

In 2011, the CCAC was requested for assistance in 13 cases from law enforcement agencies outside the territory, including the ICAC of Hong Kong (11 cases), the People's Procuratorate of Guangdong Province (1 case) and the Anti-Corruption Bureau of Brunei (1 case). Eleven of the cases have been completed, while the remaining two are still being processed.

#### **(2) CCAC's requests for case assistance to law enforcement agencies outside the territory**

In 2011, the CCAC requested law enforcement agencies outside the territory for assistance in a total of five cases. The agencies included the Supreme People's Procuratorate of Beijing and the People's Procuratorate of Guangdong Province (5 cases) and the ICAC of Hong Kong (1 case). The assistance in investigation of all these cases was completed in 2011.