

## PART II

# ANTI-CORRUPTION



## PART II

### ANTI-CORRUPTION

#### I. Introduction

In 2018, the CCAC maintained its strict adherence to the principle of justice to combat corruption. Working in a meticulous manner, it sought breakthrough from stability. Regardless of the degree of seriousness of the cases, the CCAC spared no effort in investigating every case and holding every offender responsible.

The cases investigated by the CCAC in the year had the following two features:

Firstly, there was an increase in the cases of various criminal natures involving public servants other than corruption. Over recent years, the cases of bribe giving or taking directly committed by public servants have decreased gradually. On the other hand, there was an increase in the other kinds of criminal offences committed by public servants, such as fraud, document forgery and power abuse, reflecting the need to deepen the education on law abidingness and ethics for public servants.

Secondly, there were signs indicating a rapid growth of the cases of fraud over subsidies from the Government. Due to economic development of Macao, various types of subsidies provided by the Government have been increasing gradually every year. Different problems occurred when some civil associations were applying for and using the subsidies. Some of them even involved crimes. In 2018, the CCAC investigated many cases involving fraud over government subsidies including those under the Fund of Environmental Protection and Energy Saving and the Continuing Education Development Plan, demonstrating the need for more stringent criteria and monitoring of the grant of subsidies by the Government.

In 2018, the CCAC received a total of 141 complaints and reports and 728 requests for help and enquiries relating to corruption. By the end of the year, the CCAC completed the investigations of a total of 180 criminal cases and they were archived or referred to the Public Prosecutions Office. Compared with the previous year, there was a significant decrease in complaints and reports mainly because the Legislative Assembly Elections were held in 2017, for which more complaints, requests for help and enquiries pertaining to the elections were received.

## II. Summaries of cases

### I

In May 2018, the CCAC uncovered a case of embezzlement and power abuse allegedly committed by a public servant.

The CCAC discovered in the investigation that a computer technician of the Public Security Forces Affairs Bureau of Macao (FSM) secretly brought home the computer equipment belonging to the bureau, such as the system unit. In the investigation, he confessed that because he did not have a computer at home, he brought home the equipment which belonged to the bureau and kept them for his own.

The investigation also revealed that there were a huge amount of confidential or internal documents and files belonging to other public services that the technician involved obtained illicitly by taking advantage of his position and were stored in the aforesaid computers.

The computer technician's acts allegedly constituted embezzlement and power abuse provided for in the *Penal Code*. The case was referred to the Public Prosecutions Office.

## II

In September 2018, the CCAC uncovered a case where a customs officer allegedly committed fraud.

In 2013, a customs officer was diagnosed with some illness. Subsequently, he was assigned lighter tasks by the Macao Customs Service as proposed by the Health Examination Committee of the Health Bureau. Since 2014, the customs officer had been submitting sick leave certificates so frequently that a total of 1,200 days of paid “justified absence due to illness” were accumulated between September 2014 and April 2018, involving a pay of around MOP1.1 million.

The CCAC found in the investigation that the customs officer obtained a taxi driver license in January 2014 and started to work as a taxi driver in March. During his so-called “justified absence due to illness”, he worked as a night shift taxi driver on a full-time basis and every shift took 12 hours. Moreover, there was information showing that the customs officer had over 30 records of violation such as overcharging when working as a taxi driver.

The customs officer’s acts allegedly constituted fraud over considerably high value provided for in the *Penal Code*. The case was referred to the Public Prosecutions Office.

## III

In September 2018, the CCAC uncovered a case where the witnesses in a criminal case allegedly gave false testimony during trial.

The three suspects were discharged prisoners. When they provided proof to the CCAC and the Public Prosecutions Office as witnesses in a case of alleged bribe taking involving prison guards in 2015, they gave an account of the details of and

their participation in the alleged bribe taking. The testimony and the result of the criminal investigation were basically consistent.

However, in the trial of the case in 2016, they not only recanted their previous testimony but also fabricated part of the testimony. Following the CCAC's investigation, some confessed that they deliberately gave false testimony during the trial.

The three suspects' acts allegedly constituted false testimony provided for in the *Penal Code*. The case was referred to the Public Prosecutions Office.

#### IV

In September 2018, the CCAC uncovered some cases of alleged document forgery in an attempt to fraud over temporary residency related to “major investment immigration” and “technical immigration”.

A man from the Chinese mainland who worked as a junket promoter in casinos applied for a non-resident worker permit through a trading company in which he had a stake and his application was approved. Later, he and a local woman jointly established a trading company, through which he applied for “major investment immigration” and was eventually granted temporary residency. The CCAC discovered in the investigation that when applying for “major investment immigration”, they made a false report of the implementation of the investment plan by claiming that more than 20 local workers were employed. However, in fact, 19 of them never worked for the trading company. At the same time, they also applied to the Human Resources Office for employment of non-resident workers.

In addition, some mainlanders applied for “technical immigration” as “management personnel” and were granted temporary residency permits. The job titles they claimed included business development manager, chief executive officer,

chief financial officer, etc. However, the CCAC discovered in the investigation that they not only rarely resided in Macao but also never engaged in management works in Macao. Even the workers of the relevant companies did not know there were such “management personnel”.

The aforesaid persons’ acts allegedly constituted document forgery and use of fake document provided for in Law no. 6/2004, *Illegal Immigration and Expulsion*. The cases were referred to the Public Prosecutions Office.

## V

In November 2018, the CCAC detected two cases of document forgery in an attempt to fraud over quota on employment of non-resident worker.

Between July 2014 and September 2017, the person-in-charge of a catering management company declared to the Social Security Fund that the company had employed over ten resident workers. However, the CCAC found in the investigation that some of them never worked for the company and some were still declared as the employees of the company even after they resigned. The person-in-charge submitted to the Labour Affairs Bureau (DSAL) the documents of contribution to Social Security Fund for the local persons whose employment was fictitious and was eventually allowed to hire non-resident workers.

The two owners of a Japanese restaurant declared to the Social Security Fund that they had hired over ten resident workers. However, following the investigation, it came to light that only one of them was actually working for the restaurant and the information about the remaining employees were untrue. Some of them never worked for the restaurant. For some of them, the contribution of Social Security Fund was still paid even after they resigned. Even some were just the owner’s relatives instead of employees of the restaurant. The owners submitted to the DSAL the documents of the fictitious employment of resident workers and were

eventually allowed to hire non-resident workers.

The aforesaid persons' acts allegedly constituted document forgery provided for in the *Penal Code*. The cases were referred to the Public Prosecutions Office.

## VI

In November 2018, the CCAC detected a case where a retired customs officer allegedly committed document forgery and fraud over high value.

The CCAC found in the investigation that the retired customs officer, when applying for social housing to the Housing Bureau, deliberately concealed the assets he owned including a property in the Chinese mainland and an investment account in a local bank and fabricated the proof of income from work. Eventually, he managed to be allocated a social housing flat. Moreover, when receiving pension, he concealed from the Pension Fund the fact that he was living in social housing and therefore he managed to fraud over housing allowance amounting to more than MOP50,000 between October 2016 and January 2018.

The retired customs officer's acts allegedly constituted document forgery and fraud over high value provided for in the *Penal Code*. The case was referred to the Public Prosecutions Office.

## VII

In November 2018, the CCAC detected two cases of untrue declaration of assets and interests and document forgery allegedly committed by public servants.

The CCAC found in the investigation that a public servant of the Protocol, Public Relations and External Affairs Office, when submitting an application for economical housing, allegedly concealed the flat he had just purchased in Zhuhai

in an attempt to pass the relevant examination on his assets. It was also discovered that his family member also concealed the fact of owning another flat in Zhuhai. Moreover, when the public servant submitted his declaration of assets and interests in 2015 and 2018, he also concealed the flat he owned in Zhuhai and did not declare the mortgage on and the lease income from the flat.

Moreover, in the investigation of another case, it came to light that a public servant of the Health Bureau also allegedly concealed his ownership of an immovable property in the Chinese mainland when applying for economical housing and deliberately made untrue declaration of assets and interests.

The aforesaid two public servants' acts allegedly constituted inaccurate data provided for in the *Legal Regime of Declaration of Assets and Interests* and document forgery provided for in the *Penal Code*. The cases were referred to the Public Prosecutions Office.

## VIII

In December 2018, the CCAC detected two cases of power abuse allegedly committed by leaders of public services.

The CCAC received a report alleging that a former leader of the Environmental Protection Bureau (DSPA) was intimate with a female worker of the DSPA and always assigned her to go on duty visit together. Thus his acts allegedly constituted power abuse for private gain. The CCAC found in the investigation that they had a long-term extramarital affair. The former leader of the DSPA assigned the worker to travel with him on many duty visits, including a duty visit to Portugal in 2013, which was, in fact, unrelated to her duties. In this visit, the former leader deliberately extended the trip of both of them and the extension was unnecessary for work-related reasons. The subsistence expense and trip allowance were still paid by the Government.



The CCAC received a report alleging that a leader of the Office of the Macao Special Administrative Region in Beijing allegedly committed some illegal acts by abusing his power. In accordance with the regime of personnel of representative offices of the Macao SAR, workers who live in rented residences may receive full travel allowance every month, while those who live in the dwellings provided by the Government may receive only half of the travel allowance. The CCAC found that the leader had been receiving full travel allowance for many years but actually lived in the office. He occupied two rooms in the office for accommodation and even spent public money on purchase and installation of daily living equipment, such as showering equipment, water heater, washing machine and clothes dryer for his private use. In addition, it was also found that the leader assigned the official drivers of the office to drive his relatives and friends to visit scenic spots. He even requested the drivers to make advanced payments for their meals and subsequently approved the reimbursements of those expenses.

The aforesaid leaders' acts of abusing power for private gain allegedly constituted power abuse provided for in the *Penal Code*. The cases were referred to the Public Prosecutions Office.

### **III. Mutual case assistance in cross-border investigation**

As to mutual case assistance in cross-border investigation, in 2018, the CCAC handled a total of 24 cases, of which ten were requests to the CCAC from law enforcement agencies outside the Region and 14 were requests for assistance made by the CCAC to law enforcement agencies outside the Region. 14 of them have been completed while the remaining ten cases are still being processed. There was a significant decrease in the requests for assistance from the Chinese mainland in 2018. The main reason was the reform of supervisory systems was ongoing in the entire Chinese mainland and the establishment of a new mutual case assistance

mechanism was still underway. On the other hand, there was an increase in the requests made by the CCAC compared with the previous year probably because of the trans-nationalisation and globalisation in terms of the latest characteristics and trends of crimes.

**1. Requests for case assistance to CCAC from law enforcement agencies outside the Region**

In 2018, due to the reform of supervisory systems in the entire Chinese mainland, the requests for case assistance to CCAC from law enforcement agencies outside the Region decreased from 12 in 2017 to two, of which one has been concluded while the remaining one is still being processed.

**2. CCAC's requests for case assistance to law enforcement agencies outside the Region**

There was a slight increase in the requests for assistance to law enforcement agencies outside the Region from six in 2017 to nine in 2018. Among the cases, two were made to anti-corruption agencies of both Hong Kong and the Chinese Mainland, four were made to anti-graft agencies of the Chinese mainland and three were made to the Independent Corruption Against Corruption of Hong Kong. Among the nine cases, two have been concluded while the remaining seven are still being processed.

**3. Seminar on Mutual Case Assistance of Guangdong, Hong Kong and Macao**

The Seminar on Mutual Case Assistance of Guangdong, Hong Kong and Macao, which is held by Guangdong, Hong Kong and Macao every year on a rotational basis, was suspended temporarily in 2018. Due to the global implementation of the reform of supervisory systems in the Chinese mainland, the cooperation between the CCAC and the anti-corruption agencies in the Chinese mainland and Hong Kong will be strengthened continuously.

## IV. Court verdicts

In 2018, a total of 17 cases processed by the CCAC were tried and sentenced by the court, involving 29 people in total. Some of them are still in the appeal process.

The court verdicts are summarised as follows:

No.	Court	Suspect	Charge	Result of adjudication
1	Court of First Instance	Chan XX	Document forgery Fraud	- 600-day fine at MOP100 per day, totalling MOP60,000, for 3 counts of document forgery and 3 counts of fraud; If the fine is not paid or replaced with working, a 400-day imprisonment will be imposed.
2	Court of First Instance	Cham XX Ng XX Chan XX	Forgery of document of special value Inaccurate data	- Cham XX: 2-year-and-9-month imprisonment for 2 counts of forgery of document of special value with the execution of the sentence suspended for 3 years on condition that he shall donate MOP40,000 to charity within 30 days following the confirmation of the judgment; acquitted of 2 counts of inaccurate data. - Ng XX: acquitted of 4 counts of forgery of document of special value. - Chan XX: acquitted of 4 counts of forgery of document of special value.
3	Court of First Instance	Kuong XX	Improper access	- 180-day fine at MOP500 per day, totalling MOP90,000, for 4 counts of improper access; If the fine is not paid or replaced with working, a 120-day imprisonment will be imposed.

4	Court of First Instance	Lei XX Lei XX Tong XX	Fraud  Fraud over high value	<ul style="list-style-type: none"> <li>- Lei XX: 3-year imprisonment for 15 counts of fraud and 1 count of fraud over high value with the execution of the sentence suspended for 3 years on the condition that he shall donate MOP50,000 to charity and pay MOP138,770.40 as compensation to the Fund of Environmental Protection and Energy Saving within 30 days following the confirmation of the judgment; acquitted of 1 count of fraud.</li> <li>- The criminal litigation procedure of 1 count of fraud charge against Lei XX and Lei XX was terminated due to extinction of prescription for prosecution;</li> <li>- Tong XX: acquitted of 1 count of fraud over high value and 4 counts of fraud.</li> </ul>
5	Court of First Instance  Court of Second Instance	Ip XX Lei XX Ieong X	Passive corruption to perform illicit acts  Power abuse  Active corruption  False testimony	<ul style="list-style-type: none"> <li>- Ip XX: Sentenced by the Court of First Instance to a 2-year-and-6-month imprisonment for 1 count of passive corruption to perform illicit acts and 1 count of power abuse. His appeal was rejected by the Court of Second Instance;</li> <li>- Lei XX: Sentenced by the Court of First Instance to a 1-year imprisonment for 1 count of active corruption. His appeal was rejected by the Court of Second Instance.</li> <li>- Ieong X: Sentenced by the Court of First Instance to a 9-month imprisonment for 1 count of false testimony with the execution of the sentence suspended for 18 months.</li> <li>- Meanwhile, the three defendants shall pay MOP2,000 respectively to the Coffer of Justice of Macao as the fund of compensation for victims.</li> </ul>

6	Court of First Instance	Chang XX	Document forgery	- 5-month imprisonment for 1 count of document forgery with the execution of the sentence suspended for 1 year.
7	Court of First Instance Court of Second Instance	Hong XX	Power abuse	- Sentenced by the Court of First Instance to a 210-day fine at MOP250 per day, totalling MOP52,500, for 1 count of power abuse; If the fine is not paid or replaced with working, a 140-day imprisonment will be imposed. His appeal was rejected by the Court of Second Instance.
8	Court of First Instance Court of Second Instance	Chan XX Chan XX	Forgery of document of special value by public servant Power abuse Use of fake document of special value	- Chan XX: Sentenced by the Court of First Instance to a 1-year-and-6-month imprisonment for 1 count of power abuse and 1 count of forgery of document of special value by public servant with the execution of the sentence suspended for 2 years on condition that he shall donate MOP10,000 to Macao SAR within 1 month following the confirmation of the judgment. His appeal was rejected by the Court of Second Instance. - Chan XX: acquitted of 1 count of use of fake document of special value by the Court of First Instance.

## V. Declaration of assets and interests

The *Legal Regime of Declaration of Assets and Interests* stipulates that public servants at every level shall declare the assets and interests of themselves and their spouses or co-habiting partners for the reasons such as appointment, alternation of position and termination of position. Meanwhile, the law also stipulates that they shall renew their declarations when none of the above situations occurs within five years upon the previous declaration.

Established in 1998, the legal regime has been in effect for 20 years. In 2018, it was time for a majority of the public servants to have the fourth five-year renewal of their declarations. It is expected that up to March 2019, there are still many of them who shall submit the declarations for the five-year renewal. In order to ensure smooth processing of a huge amount of renewals of declaration, the CCAC continues to review and optimise the work procedures, receives the declarations and processes the data with strict adherence to the statutory procedures.

In 2018, the CCAC collected the declaration forms from a total of 12,457 public servants. The details are listed below:

#### Statistics of declaration of assets and interests in 2018

Reasons for submitting declaration	Total
Appointment	1,965
Alternation of position	4,448
Termination of position	1,557
5-year renewal	2,384
Renewal with that of spouse	477
Pursuit of data-provision duty	1,272
Voluntary renewal	354
<b>Total</b>	<b>12,457</b>

In order to instil a deeper and clearer understanding of the *Legal Regime of Declaration of Assets and Interests* in public servants, the CCAC continued to work on promotion in various ways including disclosure of information on internet, distribution of the guidelines on filling in the declaration form and holding seminars to explain the key contents of the legal regime to public servants. In 2018, the CCAC held five seminars at the request of some public departments for around 500 participants.