

# 2006

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



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The CCAC Commissioner Cheong U submits to the Chief Executive, Mr. Ho Hau Wah, the Annual Report of the CCAC 2006



# **CHAPTER I**

## **INTRODUCTION**



## Chapter I – Introduction

With the support and cooperation of the public, the government and the civil servants, the work of the Commission Against Corruption of Macao (CCAC) progressed well in 2006. Investigations into corruption-prone areas advanced steadily. Researches were initiated on the public administrative system of wide social concerns and integrity awareness programmes targeting the citizenry were conducted in a systematic way. While making progress in different areas, the CCAC also conducted researches and made preparations in response to the rapid development of our society, laying a more solid foundation for the anti-corruption work in the territory.

In 2006, the CCAC received a total of 840 complaints, a 24.3% decrease when comparing with the 1,109 complaints registered in 2005 and a dramatic decrease of 43% over 2004. 586 criminal offences and 254 administrative complaints were recorded, with a total of 57 cases commenced for investigations. In addition to the accumulated and reopened cases, a total of 116 commenced cases were processed. 69 cases were concluded over the year while 18 were referred to the Public Prosecutions Office.

In 2006, both “Transparency International” and “Political and Economic Risk Consultancy” gave relatively high rankings for the integrity situation in Macao. According to the questionnaire surveys conducted by local academic institutions, over 92% of citizens did not encounter any corruption in recent years. The surveys also revealed that corruption rarely occurred in the lives of ordinary citizens. The anti-corruption investigations conducted by the CCAC also indicated that there was a dramatic decrease in the number of cases and reports of public servants asking citizens for bribes. Such figures suggested that the anti-corruption efforts of Macao had achieved preliminary success.

However, while the figures showed a positive trend, the CCAC uncovered the most serious case of corruption in 2006. The former Secretary for Transport and Public Works involved in the case was the most senior official ever arrested in the territory. Many well-known businessmen in the construction industry were also arrested in this case. On one hand, the case demonstrated the determination of the Macao SAR Government to strictly enforce anti-corruption policies and underscored the effective operations of the anti-corruption body, which operates independently according to law. On the other hand, rapid economic development

reflected that citizens had to be more alert to the social problems resulting from an imperfect system and illegal customary practices, which could seriously impede the development of the Macao SAR. This situation demanded profound reflections by society.

In 2006, the courts adjudicated 8 cases detected by the CCAC, with the number of people involved exceeding that of past years. Three of the cases involved the breach of electoral regulations of the Legislative Assembly and most of the accused were found guilty. This further reinforces the fact that those who ignore the rule of law and law enforcement will eventually be punished by the law.

The 8<sup>th</sup> Steering Group Meeting of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific took place in Manila in the Philippines in May 2006. During the meeting, the Macao SAR formally signed up as a member of the Anti-Corruption Action Plan for Asia and the Pacific, thus advancing the development of anti-corruption in Macao.

In 2006, the CCAC received 254 administrative complaints and 753 requests for help and consultation. The CCAC completed and followed up on the work of research on operations of the Civic and Municipal Affairs Bureau. The CCAC also cooperated with the Land, Public Works and Transport Bureau to conduct an examination on the handling procedures relating to illegal constructions carried out by the Inspection Division under the Urbanization Department. Meanwhile, the CCAC conducted an examination on system regarding the power of intervention of the public administration concerning the misuse and poor management of private premises. The system regulating land-grant and construction was also reviewed, with conclusions of these reviews expected in 2007. After the 3<sup>rd</sup> Legislative Assembly Election of the Macao SAR was concluded, the CCAC immediately reviewed and analysed the Election Law of the Legislative Assembly of the Macao SAR and the Macao Electoral Registration Law. The CCAC also made several recommendations and the report was submitted to the Macao SAR Government in mid-2006.

Since the publication of the *Guidelines on the Professional Ethics and Conduct of Public Servants* in 2005, it has been playing an important role in promoting the honesty of public servants and building a culture of integrity. By 2006, over 90% of public departments had formulated their internal codes of conduct. The CCAC also published *Selected Cases of Ombudsman* to enrich citizens' knowledge about ombudsman.

With regard to promotion and education, the CCAC actively organized a total of 366

seminars on different topics to disseminate the information of integrity to a wide range of audience. Participants numbered almost 24,000. The CCAC also continuously reinforced integrity education for youth by supplementing the content of teaching materials of ethical education for primary students and creating a youth ethics website. In addition, the CCAC strived to promote a culture of honesty within private institutions.

The CCAC branch office established in the northern district has gradually become familiar to citizens and has played a positive role in promoting community relations and improving youth education regarding integrity and honesty. The branch office received a total of 517 complaints, reports, requests for help and consultation, etc., marking a 28% increase over 2005. The office has won significant trust and popularity among citizens.

Looking ahead to 2007, the CCAC will insist on its principle of investigating into any pursuable traces of corruption and combating vigorously all kinds of corruption and will publicize the functions of ombudsman. Keeping abreast of social development, the CCAC will continue to reinforce respective measures in three aspects - promoting system development, encouraging supervision by the public and enhancing the ethical standards of the populace. The CCAC will strengthen its monitoring on middle- and high-ranking public servants in particular. Regarding the detected cases involving failures of fulfillment of official duties, the CCAC will closely follow up with respective departments on the legality and strictness of disciplinary procedures. Furthermore, the CCAC will reinforce the functions of ombudsman, conduct analytical research on the public administrative system and administrative procedures in which loopholes are identified, so as to further refine the system.

In response to the needs of social development and to the application of the United Nations Convention Against Corruption to Macao, the CCAC will co-ordinate with the Macao SAR Government and conduct analysis on law enactment within its competence, especially regarding the supervision over the private sector. The report and the bills will be submitted to the Chief Executive for consideration upon completion.

For the CCAC, 2006 was a year full of challenges, yet it was also an encouraging and meaningful year. Steady improvements were made towards building a clean administration. However, the road ahead will not be smooth, especially in the midst of rapid economic development. There is no room for rest in the anti-corruption journey.





**CHAPTER II**  
**CONSTITUTIONAL & ORGANIZATIONAL**  
**STRUCTURE**

## Chapter II – Constitutional & Organizational Structure

### 2.1 Constitution

Upon the founding of the Macao Special Administrative Region (Macao SAR) on 20<sup>th</sup> December 1999, and in accordance with Article 59 of the Basic Law of the Macao SAR, the CCAC was formally and officially established. The CCAC functions independently under the instructions of a Commissioner, who is accountable only 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 and fighting of corruption, and for the handling of administrative complaints in accordance with the law.

### 2.2 Functions and Organizational Structure

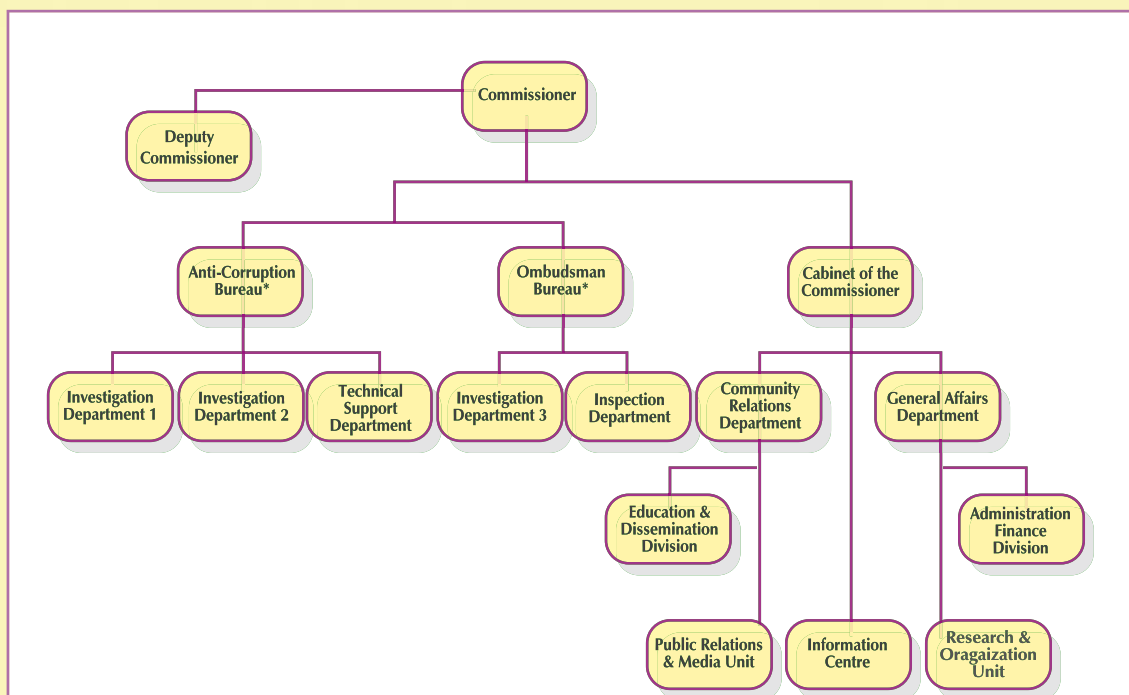
In August 2000, the Legislative Assembly of the Macao SAR approved the Organizational Law of the CCAC (Law no.10/2000), thereby vesting the CCAC with more powers, including detention, search, seizure and use of weapons. Investigators are also granted the status of criminal investigation police officers, reflecting the determination of the Macao SAR Government to eradicate corruption and ensure a clean administration.

The Organizational Law specifies that the main functions of the CCAC are to:

- Prevent acts of corruption or fraud;
- Instigate investigations and enquiries into acts of corruption and fraud committed by public servants;
- Instigate investigations and enquiries into acts of corruption and fraud relating to electoral registration and elections;
- Protect the rights, freedom and legitimate interests of individuals and safeguard the justice, legality and efficiency of the public administration.

The Administrative Regulation of the CCAC – “Organization and Operation of the CCAC” (no.31/2000) promulgated on 21<sup>st</sup> August 2000 - provides the CCAC with an improved organizational structure and increased manpower. The CCAC consists of the Cabinet of the Commissioner, the Anti-Corruption Bureau, and the Ombudsman’s 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 remit of the CCAC while the Technical Support Department provides support for combating corruption and accepting complaints and reports of corruption. The Ombudsman Bureau, consisting of Investigation Department III and the Inspection Department, is responsible for recording complaints, rectifying illegal or unfair administrative acts and conducting studies on the improvement of administrative processes and operation of public departments. The Cabinet of the Commissioner consists of the General Affairs Department, Community Relations Department and the Information Centre. These are responsible, respectively, 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



\*The deputy commissioner is inherently designated as the director of the bureau.

### 2.3 Monitoring Committee on Discipline of the CCAC Personnel

On 31<sup>st</sup> July 2001, the Chief Executive established the “Monitoring Committee on Discipline of the CCAC Personnel” through order no. 164/2001. Its main functions are to analyse and monitor the non-criminal complaints on the CCAC personnel and make suggestions to the Chief Executive. The Committee comprises of five members with a 3-year-term. They are being appointed by the Chief Executive from among the prominent people in the Macao SAR. Members of the present Committee are Leong Heng Teng (President), Paula Ling, Kwan Tsui Hang, Lei Pui Lam and Philip Xavier.

**CHAPTER III**  
**GENERAL DESCRIPTION WITH**  
**STATISTICS**

## Chapter III – General Description with Statistics

### 3.1 Number of Complaints Recorded

In 2006, the CCAC recorded a total of 840 cases - a 24.3% decrease compared with the 1,109 recorded in 2005 and a dramatic decrease of 43% over that of 2004. This represents the lowest number of complaints received since the Macao SAR was established. Complaints were lodged for 586 criminal offences and 254 administrative complaints. The decrease of complaints related primarily to criminal offences. It is believed that the steady decrease in criminal offences is a result of the overall improvement of integrity in Macao, the increase of concealed corruption and the upgrading of public administration services.

Table 1  
General trend of complaints recorded from 2000 to 2006

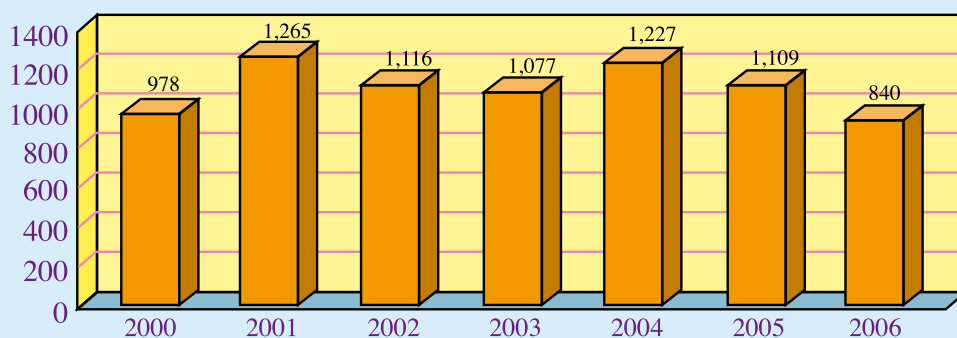
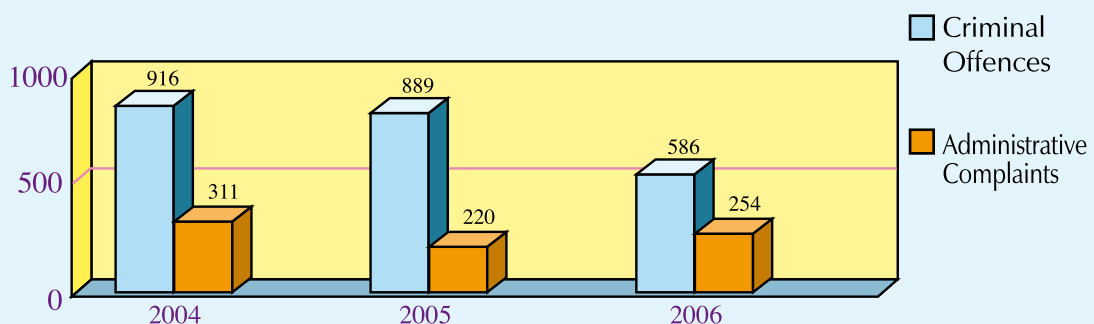


Table 2  
A comparison of the number of complaints by type from 2004 to 2006





In terms of the source of complaint lodged, 772 cases were reported by citizens, i.e., 91.9% of the total number of recorded cases. Of these complaints, more than half (52%) were anonymous or requested anonymity. However, in recent years a higher proportion of citizens have been willing to reveal their names or provide personal information when lodging complaints. Such an increase suggests that citizens trust and recognize the CCAC more than before. A total of 42 cases were referred, reported or requested by public entities. Of these cases, 30 were requested by overseas law enforcement agencies for joint investigation. The CCAC was sensitive to potential corruption in society and correspondingly initiated 26 cases in 2006.

Table 3  
Comparison of cases recorded from 2000 to 2006 by source

Origin of recorded cases		2000		2001		2002		2003		2004		2005		2006	
Reported by citizens	Anonymous or requested anonymity	542	55.4%	813	64.3%	708	63.4%	663	61.6%	661	53.9%	650	58.6%	437	52.0%
	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%	335	39.9%
Referred/reported/requested by public entities		39	4.0%	32	2.5%	28	2.5%	41	3.8%	44	3.6%	45	4.1%	42	5%
Referred/reported by media		2	0.2%	6	0.5%	2	0.2%	2	0.2%	3	0.2%	0	0%	0	0%
Initiated by the CCAC		3	0.3%	13	1.0%	8	0.7%	8	0.7%	21	1.7%	11	1.0%	26*	3.1%
Total recorded cases		978		1,265		1,116		1,077		1,227		1,109		840	

\* Including 6 cases commenced for investigation by judiciary agencies

Telephone calls and mail were the most common ways by which citizens lodged complaints, and accounted for 63.7% of the total; 138 cases were reported by citizens in person but the proportion decreased compared with the previous year. On the other hand, the number of complaints lodged by email continued to increase. The CCAC will continue to publicize the service and assure citizens that their personal data will remain confidential, while encouraging them to lodge complaints with their signatures or in person whenever possible in order that the CCAC can increase its efficiency in processing cases.

Table 4  
Different components of cases recorded in 2006 by source of reporting method

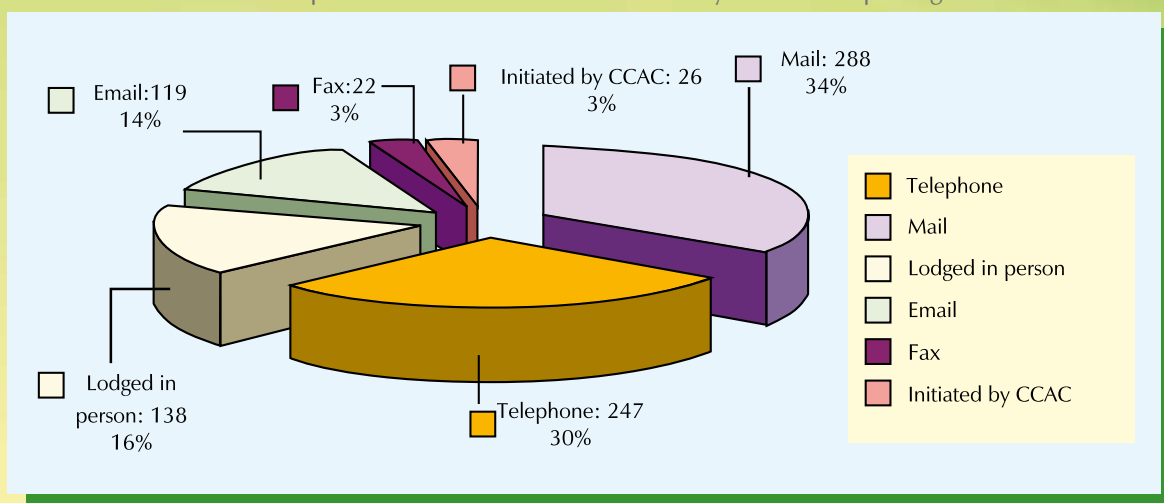


Table 5  
Comparison of cases recorded from 2004 to 2006 by source of reporting method

Reporting method	2004		2005		2006	
	Number	Percentage	Number	Percentage	Number	Percentage
By mail	395	32.2%	358	32.3%	288	34.3%
By phone	414	33.7%	377	34.0%	247	29.4%
By person	288	23.5%	230	20.7%	138	16.4%
By email	84	6.9%	116	10.5%	119	14.2%
By fax	25	2.0%	17	1.5%	22	2.6%
Initiated by CCAC	21	1.7%	11	1.0%	26*	3.1%
<b>Total recorded cases</b>	<b>1,227</b>	<b>100.0%</b>	<b>1,109</b>	<b>100.0%</b>	<b>840</b>	<b>100.0%</b>

\* Including 6 cases commenced for investigation by judiciary agencies

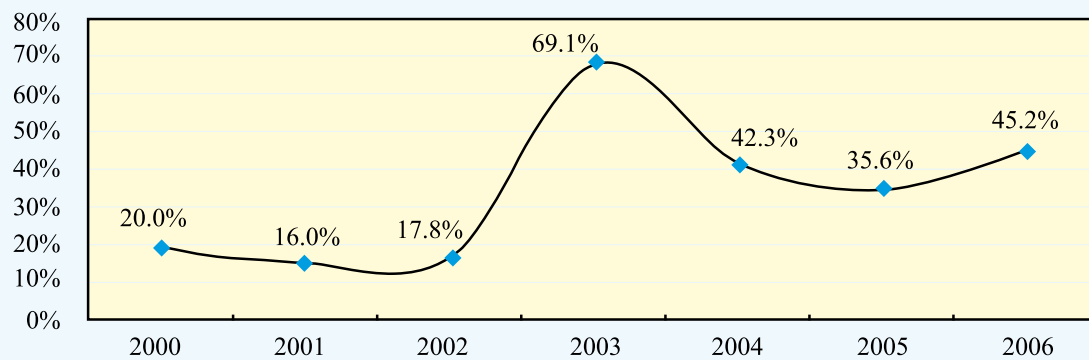
### 3.2 Complaint Handling Methods

In 2006, the CCAC recorded a total of 840 complaints, 460 of which did not qualify for investigation. This was mainly because the complaints did not specify corrupt activity, were beyond the functional scope of the CCAC or did not contain enough information for follow-up, etc. The remaining 380 cases were handled through commencement for investigation, transferal or other unofficial channels. By contrast, the proportion of cases that qualified for handling in 2006 increased dramatically compared with the previous year, indicating that the quality of complaint lodged by citizens has steadily improved over recent years.

Table 6  
Complaint handling methods recorded in 2006

Handling methods		Number	Percentage
Qualified	Commencement	57	45.2%
	Referral to other department	31	
	Unofficial channel	292	
Non-qualifying cases requiring no further investigation		460	54.8%
Total		840	100.0%

Table 7  
Comparison of cases qualifying for handling from 2000 to 2006



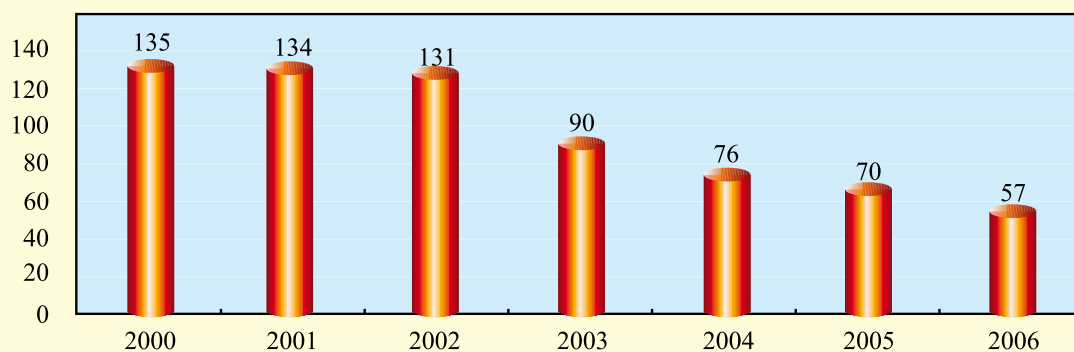
Of the 380 cases that qualified for handling, the CCAC instigated investigations for 57 of them; 31 were referred to other departments; 292 were handled through unofficial channels. The cases that qualified for handling in 2006 were added to a backlog and reopened cases from 2005 and 2006. In consequence, a total of 493 cases were handled throughout the year, comprised of 116 commenced cases and 377 non-commenced cases.

Table 8  
Total cases handled in 2006

Classification of handled cases		Number	
Cases commenced for investigation	Commenced in 2006	57	116
	Reopened in 2006	2	
	Transferred from 2005	57	
Cases not commenced for investigation	Recorded in 2006	323	377
	Transferred from 2005	54	
Total		493	

In 2006, the CCAC commenced 57 cases, comprising 54 criminal offences and 3 administrative complaints. The decrease in commenced cases resulted not only from the steady annual decrease of recorded cases but from strict commencement principles enforced by the CCAC. In terms of criminal offences, the CCAC set up a preliminary screening mechanism system to determine whether cases are qualified for handling. In terms of administrative complaints, the CCAC has adopted suitable handling methods according to the complexity of the issues involved. In order to help citizens resolve problems systematically, most administrative complaints were handled through referral and unofficial methods; more complicated cases or those of public concerns were handled through commencement for investigation.

Table 9  
General trend of cases commenced for investigation in 2000-2006



In terms of sources of recorded complaints, most commenced cases revolved round complaints lodged by citizens, with more than half anonymous or requesting anonymity. In regard to all the commenced cases, the CCAC handled them resolutely and without bias. However, the insufficiency of information arising from anonymous complaints often prevented cases being handled in a timely or opportune manner. Nevertheless, the number of commenced cases initiated by the CCAC recorded a relatively large increase compared to the previous year.

Table 10  
Comparison of cases commenced for investigation from 2000 to 2006 by source

Source of complaint recorded		2000	2001	2002	2003	2004	2005	2006
Reported by citizens	Anonymous or requesting anonymity	47	70	65	40	41	40	26
	Signed or willing to provide personal data	55	32	46	26	20	24	16
Referred/reported/requested by public entities		30	20	17	24	2	2	2
Referred/reported by media		0	0	1	0	0	0	0
Initiated by the CCAC		3	12	2	0	13	4	13*
Total cases commenced		135	134	131	90	76	70	57

\* Including 6 cases commenced for investigation by judiciary agencies

### 3.3 Progress analysis of Cases

By December 2006, the CCAC concluded a total of 365 cases, comprising 69 cases commenced and 296 not commenced, 18 cases were referred to the Public Prosecutions Office. Of the 128 cases carried forward to 2007, 47 were commenced for investigation and 81 were not commenced.

Table 11  
Analysis of handling progress of cases in 2006

Classification	Cases handled in 2006	Cases concluded in 2006	Cases continued in 2007
Cases commenced for investigation	116	69	47
Cases not commenced for investigation	377	296	81
<b>Total</b>	<b>493</b>	<b>365</b>	<b>128</b>

### 3.4 Cases handled by the Monitoring Committee for the Discipline of the CCAC Personnel

Founded in 2001, the Monitoring Committee for the Discipline of the CCAC Personnel has received a total of 8 complaints, of which 7 were processed. The content of the complaints primarily involved dissatisfaction with the legality of investigation procedures and the attitude of the CCAC staff.

The Committee conducts analysis and discussion after receiving complaints and inquiry reports, and proposes suggestions accordingly. To date, no member of the CCAC staff has been found to infringe upon any code of conduct.



Monitoring Committee for the Discipline of CCAC Personnel

Table 12  
Recording/Handling of complaints by the Monitoring Committee for  
the Discipline of the CCAC Personnel in 2001-2006

Year	2001	2002	2003	2004	2005	2006	Total
Complaints received	1	1	2	3	0	1	8
Complaints handled	0	2	0	2	1	2	7



# **CHAPTER IV**

## **ANTI-CORRUPTION**

## Chapter IV – Anti-corruption

While 2006 presented many challenges, the year also represented a significant milestone for anti-corruption. During this period the CCAC has nabbed several cases involving a great number of people, and which caused extensive reverberations - the most significant of which was the corruption case involving transport and public works, the result of a lengthy in-depth investigation. This case involved the most senior local official ever to be indicted, the largest dollar bribes, and the most far-flung ramifications since the establishment of the Macao SAR. All in all, it was a watershed year for anti-corruption forces.

In 2006, the courts conducted trials and pronounced on many cases uncovered by the CCAC. Among these were 3 electoral cases, a case in which a former marine policeman (a customs officer) was accused of receiving bribes; and a case in which a former employee of the Finance Services Bureau being charged of corruption. The judgement of these cases had an important impact on prompting the anti-corruption work in Macao. In addition, international assessment institutions have assigned a positive rating to the integrity situation of Macao.

In order to combat cross-regional corruption in 2006, the CCAC had consolidated cooperation with neighbouring regions for joint investigations while enhancing exchange and collaboration opportunities with international anti-corruption organs. Internally, the CCAC continued to hold professional training activities at various levels for its personnel to advance the investigative ability of its officers. At the same time, new investigators were recruited to strengthen the investigative capabilities of the CCAC.

### 4.1 Achievements in Combating Corruption

An overall review of 2006 revealed that anti-corruption work in Macao had obtained achievements in phases, primarily in the following 3 respects:

A. Uncovering the case involving former Secretary for Transport and Public Works, Ao Man Long, who is suspected of receiving a large amount in bribes

Upon investigation, the CCAC suspected that the former Secretary for Transport and Public Works, Ao Man Long, was receiving bribes by abuse of power and engaging in illegal financial activities. The property involved exceeded MOP100 million. On the night of 6<sup>th</sup>



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**TÁRIO AO MAN LONG E MAIS DEZ PESSOAS FORAM DETIDAS SUSPEITA DE CORRUPÇÃO E ACTIVIDADES FINANCEIRAS ILÍCITAS**

# O dia mais longo

- AO MAN LONG É HOJE PRESENTE AO TUR
- INVESTIGAÇÃO TERÁ COMEÇADO EM HK
- SUSPEITAS SOBRE BRANQUEIAMENTOS
- CONSTRUTORES DE DETIDOS
- PROJECTOS DE OBRAS NA ORIGEM
- EDMUND HO PROMETE FIRMEZA

Páginas 2 e 3



**Opinião**  
*Frendam-me essa louca!*

News article: Local media report of Ao Man Long case

December 2006, Ao Man Long was legally detained by the CCAC. Another 8 men and 3 women were involved including relatives of Ao. The detainees were suspected of bribery, receiving bribes and money laundering. On the morning of 7<sup>th</sup> December, Chief Executive Edmund Ho, in the headquarters of the Macao SAR Government, announced that Ao Man Long was suspected of receiving bribes. On the same day, the Central People's Government removed Ao from office on the recommendation of the Chief Executive of the Macao SAR. On 8<sup>th</sup> December, the CCAC referred the 12 suspects to the Public Prosecutions Office. The case astonished Macao and aroused international concern, impacting on Macao politics, construction and real estate circles.



Local and foreign media strived to cover news of Ao case

#### B. Judgement of important cases enhances development of anti-corruption

In 2006, the court ruled on 3 cases involving breaches of electoral regulations, which clarified the confusion and rumour surrounding the 2005 Legislative Assembly Election. The ruling helped to enhance the civic sense of Macao citizens while sending a warning about illegal activities.

November 2006 marked the first time in Macao's history that citizens were convicted of committing electoral crimes by the courts. 2 defendants were sentenced to prison without probation, while 3 defendants were given probation and fined; the remaining 5 defendants were fined. On 15<sup>th</sup> December, 14 defendants in another electoral case were found guilty of





The Corruption Perception Index 2006 assembled a great amount of international and regional investigation data, and conducted assessments and comparisons among different countries and regions in terms of their level of integrity. Data must meet strict prerequisites before being listed as evidence. Related data included “Country Risk Service and Country Forecast” compiled by the London Economist Intelligence Unit, the “Global Competitiveness Report” by the World Economic Forum, “Country Risk Ranking” by the World Markets Research Centre, and “Asian Intelligence Newsletter” by the Political and Economic Risk Consultancy, etc.

It was especially mentioned in the Transparency International report that Macao - entering the rankings for the first time - was ranked 26<sup>th</sup> in the Asia Pacific Region with the relatively high score of 6.6, a feat inseparable from the great efforts made by its local anti-corruption institution.



TERÇA 7.11.2006

TRANSPARÊNCIA INTERNACIONAL PUBLICA RELATÓRIO SOBRE CORRUPÇÃO NO MUNDO

## Macao como Portugal

Carlos Pissacanes  
tpi@transparencia.net

**ESTÃO 26º lugar, ao lado de Portugal, a Região Administrativa Especial de Macau, que pela primeira vez aparece cotada no relatório da organização internacional sobre a percepção da corrupção, Transparência Internacional, com sede em Berlim, cujo relatório relativo ao ano de 2006 foi ontem tornado público.**

O documento pretende avaliar, a partir de uma série de indicadores - que no caso de Macau foram três - a percepção sobre corrupção existente entre a população e a responsabilidade da administração de 163 países e regiões do mundo. Na lista dos países "mais transparentes" deste ano, a Finlândia surge à cabeça, logo seguida pela Islândia, Nova Zelândia, Dinamarca, no quinto lugar o primeiro país asiático, Singapura. No estrato global, Macau, ao lado de Portugal, no 26º posto, surge à frente do Brasil, em 2º lugar, de Taiwan, em 34º, das Maritimas e da Coreia do Sul, que ocupam a 42ª posição e a Malásia, em 44ª.

Tinor - Leste está no caso do eleitor, na 141ª posição. Mais bem colocados na Ásia, são Singapura e Hong Kong, que surge destacado em 15º lugar. Em penúltimo lugar, logo seguido do Haiti, encontra-se a Birmânia.

A organização alerta que este resultado final, acerca da percepção da corrupção nos universos analisados, pode ser controverso devido à diversidade de dados recolhidos de país para país, e a opinião do universo de inquiridos que também é variável. Na elaboração do relatório contribuíram instituições e organizações como o Banco Mundial, o Fórum Económico Mundial, e o Centro Mundial de Investigação de Mercados. A entrada de Macau no relatório deste ano deve-se ao critério estabelecido pela Transparência Internacional para a elegibilidade de um país ou região - a análise, pelo menos, de dados de três fontes credíveis. Deu a entrada também, pela primeira vez neste índice, do Brasil.

**Corrupção amara pobreza**

Na introdução a este documento, a presidente da Transparência Internacional, Huguette Labelle, afirma que "milhões de pessoas estão a viver em situações de pobreza devido à corrupção". Apesar de uma década de progressos na implementação de regulamentos e leis anti-corrupção, os resultados agora divulgados demonstram que ainda muito trabalho precisa de ser feito antes de conseguirmos melhorias significativas nas vidas das cidadãos dos países mais pobres do mundo.

**Abaixo do valor três encontram-se 72 países, o que para a organização significa que a corrupção é perceptível como um fenómeno em franca disseminação**

A afirmação de Labelle acerca da redução corrupção/pobreza, baseia-se na posição que a maior parte dos países ocupam na lista. Quase três quartos dos países listados apresentam um resultado inferior ao valor cinco indicando que a maioria revela altos níveis de percepção em termos de corrupção interna. Abaixo do valor três encontram-se 72 países, o que para a organização significa que a corrupção é perceptível como um fenómeno em franca disseminação. Macau tem uma classificação de 6.6.

Análise a este "ranking" apresenta ainda os casos em que a percepção da corrupção é cada vez maior. São exemplos o Brasil, Cuba, Israel, Jordânia, Laos, Seychelles, Trinidad e Tobago, Tunísia e Estados Unidos. Ao contrário, no países com notáveis melhorias incluem-se a Argélia, República Checa, Índia, Japão, Letónia, Libano, Maritimas, Paraguai, Polónia, Turquia, Turcomenistão e Uruguai. Um esforço notável dados os alertas deixados no relatório acerca da dificuldade em obter o "ranking" num curto período de tempo. "O indicador de 2006 baseia-se em dados recolhidos ao longo dos últimos dois anos relativamente à percepção que possa ter sido formada mesmo em anos passados. Isto significa que as mudanças substanciais da percepção da corrupção só depois de longo período de tempo poderão ser legítimas".

No documento, a Transparência Internacional recomenda a promoção de medidas e estratégias anti-corrupção pelas associações e corporações profissionais, a formação de intermediários, auxílios pessoais para os profissionais que enfrentam actos considerados de corrupção, e, por fim, maior envolvimento dos centros financeiros para evitar a utilização de transacções corruptas.

No relatório a este documento, o Conselheiro Contra a Corrupção, Cheong U' analisa a inclusão de Macau nesta lista considerando-a positiva para "a compreensão do desenvolvimento social da RAEM e dos esforços para a promoção de uma sociedade transparente e sem corrupção". Cheong congratulou-se com a 26ª posição que Macau ocupa na lista atribuindo-a "ao contributo que os oficiais anti-corrupção têm vindo a desenvolver ao longo dos últimos anos para combater este fenómeno" na região.

**OS MENOS CORRUPTOS**

1) Tailândia	9.6
2) Islândia	9.6
3) Nova Zelândia	9.6
4) Dinamarca	9.5
5) Singapura	9.4
6) Suécia	9.2
7) Suíça	9.1
8) Noruega	8.8
9) Austrália	8.7
10) Irlanda	8.7

**OS MAIS CORRUPTOS**

181) Guiné Equatorial	2.1
182) Libéria	2.1
183) Bangladesh	2.0
184) Chade	2.0
185) RD Congo	2.0
186) Búrcia	2.0
187) Guiné	1.9
188) Iraque	1.9
189) Birmânia	1.8
190) Haiti	1.8



## Ranking of Macao in Corruption Perception Index 2006:

Ranking of Corruption Perception Index 2006			
Country/District	Regional Ranking (Asia Pacific)	International Ranking	CPI Score
Finland	-----	1	9.6
Iceland	-----	1	9.6
New Zealand	1	1	9.6
Denmark	-----	4	9.5
Singapore	2	5	9.4
Australia	3	9	8.7
Holland	-----	9	8.7
Hong Kong	4	15	8.3
Japan	5	17	7.6
Macao	6	26	6.6
Portugal	-----	26	6.6
Taiwan	7	34	5.9
South Korea	8	42	5.1
Malaysia	9	44	5.0
Lebanon	-----	63	3.6
Seychelles	-----	63	3.6
Thailand	10	63	3.6
China	11	70	3.3
India	11	70	3.3
Haiti	-----	163	1.8
Total number of countries	25	163	-----

Source: Transparency International ([www.transparency.org](http://www.transparency.org))

In addition, the Political and Economic Risk Consultancy, headquartered in Hong Kong, listed Macao as one of its investigation subjects for the first time ever in its 2006 annual report on corruption trends in Asia, based on the fact that Macao has achieved steady economic improvement and attracted numerous overseas investors in recent years.

During January and February 2006, the Political and Economic Risk Consultancy surveyed more than 1,200 foreign merchants and non-local workers from 13 Asian countries and regions via questionnaire and interview. Ratings range from 0 (complete integrity) to 10 (most

seriously corrupt). Singapore achieved the best score of 1.30, followed by Japan at 3.01 and Hong Kong at 3.13. Macao ranked 4<sup>th</sup> with a score of 4.78. The report confirmed the positive attributes of the CCAC and the international recognition it has achieved.

It was the first time that international assessment institutions had listed Macao in assessment. This provided an important reference for gauging the achievements of Macao's anti-corruption activities while bolstering the importance of anti-corruption forces in society as Macao marches towards internationalization.

QUARTA 1.3.2006 hoje macau

ESTUDO APONTA PARA DIMINUIÇÃO DA CORRUPÇÃO NA ÁSIA

## Macao entre os melhores

A CORRUPÇÃO na maioria dos países e territórios asiáticos diminuiu comparativamente com o ano passado, mas há ainda muito a fazer no combate a este tipo de criminalidade, aponta um estudo efectuado por especialistas de Hong Kong, da PERC (Political and Economical Risk Consultancy). O estudo teve em conta também Macau, que se encontra entre os países e territórios com menores índices de corrupção. A RAEM é a quarta classificada entre os melhores, sendo apenas ultrapassada por Hong Kong, na terceira posição, Japão e Singapura, onde o nível de corrupção é o menos elevado da Ásia.

O estudo sobre este tipo de criminalidade de assume contornos mais assustadores é, segundo os peritos da PERC, a Indonésia. Numa escala de zero a dez, o país indonésio alcança os 8,16 pontos, em índice ainda assim melhor do que em 2005, quando chegou aos 9,10, mas o mais elevado dos 13 países e territórios considerados pelo estudo. Seguem-se o Vietname e as Filipinas, que registaram também descidas comparativamente com os valores apontados em 2005. Mais preocupante é, contudo, a situação verificada na Tailândia, "um caso especial, em que as acusações de corrupção feitas à administração têm vindo a aumentar nos últimos meses", sublinham os especialistas de Hong Kong.

Quanto a Macau, o estudo não permite fazer uma comparação com os valores do ano passado, uma vez que é a primeira vez que o território é incluído na pesquisa. Nesta escala de zero a dez, a RAEM está ligeiramente abaixo da média da tabela, com 4,78. Num comunicado do Comissariado contra a Corrupção sobre o estudo feito pela PERC, o organismo explica que "a inclusão de Macau, pela primeira vez, como objecto de análise, explica-se essencialmente pelo facto de, nos últimos anos, o território ter registado um desenvolvimento económico sustentado, atraindo muitos investimentos do exterior". Sobre os dados da RAEM constantes no relatório, adianta o CCAC que "instados a comentar as tendências de corrupção, 55 por cento dos inquiridos acham que a situação da integridade em Macau tem melhorado, cerca de dez por cento apontaram para uma deterioração e cerca de 35 por cento não sentem mudanças."

A região administrativa especial vinha tem números ainda mais positivos do que Macau, classificada com 3,13, uma ligeira melhoria em relação a 2005, em que a pontuação se cifrava nos 3,50. "É o melhor valor de Hong Kong numa década de estudo," apontam os especialistas.

A China também apresentou evoluções positivas no que toca à corrupção, ao diminuir de 7,68 para 7,58, mas "continua a ser um grande problema."

O Japão, com pouco mais de três pontos, apresenta também agora dados mais positivos do que no ano passado e as perspectivas são, sublinha a PERC, animadoras. "O Japão deverá dar este ano mais um passo significativo na luta contra a corrupção, quando entrar em vigor uma lei que revê as condições dos monopólios no país. Ainda assim, a relação entre política e negócios no Japão pode ser considerada, neste momento, muito positiva."

Em Singapura, o índice de corrupção registou um ligeiro aumento em relação a 2005, continuando, contudo, a ser líder no que toca ao combate à corrupção.



## 4.2 Number of Cases Recorded and Commenced

In 2006, the CCAC recorded a total of 586 complaints involving criminal offences, a decrease of 34% compared with that of the 899 complaints made in 2005. While there were many reasons for the decrease in complaints, several evaluations and practical anti-corruption activities indicated that the decrease arose from the improvement of Macao's public administration as well as the employment of more covert corruption tactics.

After analysing preliminary screening and following-up all the recorded cases, there were 126 criminal offences qualifying for handling while 54 of these qualified cases were commenced for investigation. Together with the backlog of 2005 and reopened cases, a total of 205 criminal offences were handled in 2006, of which 112 cases were commenced for investigation.

### 4.3 Cases Concluded and Referred to the Public Prosecutions Office

A total of 68 criminal offences were concluded in 2006, including 50 filed and 18 referred to the Public Prosecutions Office. The referred cases related mainly to fraud committed by public servants, abuse of power and receiving bribes. It also included electoral fraud cases forwarded from 2005 for handling.

The following are excerpts from selected cases referred to the Public Prosecutions Office in 2006:

#### February

A customs official was suspected of abuse of power and receiving bribes. After Chinese New Year in 2006, the CCAC received tip-off indicating that a customs officer stationed at the airport cargo station extorted a great amount of “red packet” money on the pretext of Chinese New Year. Accordingly, the CCAC investigators found on the staffs in the customs office of the cargo station a large amount of cash and “red packet” money. A customs inspector, 2 customs sub-inspectors and 9 customs officers were suspected of extorting various benefits from cargo delivery companies in exchange for efficient customs clearance. The suspects requested benefits such as moon cakes during Mid-Autumn Festival, Christmas party sponsoring, and “red packet” money during Chinese New Year, etc. Whenever delivery companies provided fewer benefits or were unwilling to contribute, the respective customs officer made things difficult for the companies involved; typically, they detained the companies’ goods for “examination”, thus preventing the companies from quickly picking up their goods. The case was referred to the Public Prosecutions Office on 10<sup>th</sup> February 2006.

#### February

A case of retention of voter registration cards was uncovered. During the 2005 Legislative



Assembly Election, 9 suspects - knowing that receiving benefits breached electoral regulations - gave their own voter registration cards to others to ensure the vote outcome according to the request of related parties. The case was referred to the Public Prosecutions Office on 23<sup>rd</sup> February 2006.

### March

A breach of electoral regulations was uncovered. According to citizens' complaints, on 25<sup>th</sup> September 2005, the polling day of the Legislative Assembly Election, individuals wearing the "uniform" of a certain group of candidates assembled at several polling stations. Some

voters approached these individuals for registration after polling and it was suspected that illegal activity had occurred. The CCAC investigation suspected that a candidate and 52 members of a fellow provincial association had breached electoral regulations. The case was referred to the Public Prosecutions Office on 1<sup>st</sup> March 2006.

### March

An inspector from the Macao Economic Services was discovered receiving bribes. Complainants accused the inspector of extorting money through a third party from factory owners in reward for not penalizing the factory following inspection. The CCAC conducted an in-depth investigation and found that an inspector Chio of the Macao Economic Services had conspired with a mediator surnamed Ng to extort bribes from factory owners during factory inspections conducted by the Macao Economic Services. This was achieved either by giving owners advance warning of the inspection or by assisting in handling fine-related matters after factory inspection. 4 suspects were involved including an inspector from the Macao Economic Services. The case was referred to the Public Prosecutions Office on 6<sup>th</sup> March 2006.





## March

A case of bribery was uncovered. In March 2006, the CCAC received complaints that a woman surnamed Chan – a “tip-beggar” in casinos - was suspected of stealing chips from customers and was caught by casino staff on the spot. Chan attempted to bribe the casino staff in exchange for letting her leave the premises. The CCAC investigation, taking into account information and witnesses at the scene, suspected that Chan had offered bribes. The case was referred to the Public Prosecutions Office on 13<sup>th</sup> March 2006.

## March

A member of staff of the Civic and Municipal Affairs Bureau was suspected of cheating his housing allowance. The CCAC investigations determined that the suspect, surnamed Wong, owned a self-invested property without mortgage but applied to respective department for a housing allowance from February 1995 to May 2004. The suspect made the application with the monthly payment sheet of another estate and a forged rental sheet issued by his brother. The total amount of fraudulent housing allowance exceeded MOP110,000.00 The case was referred to the Public Prosecutions Office on 14<sup>th</sup> March 2006.



## March

A case of public servants suspected of abuse of power was uncovered. The 2 suspects were a manager of Macao Television Broadcasts Limited (Teledifusão De Macau S.A, TDM) surnamed Chan, and his wife, surnamed Lee. In 2005, the CCAC received complaints that when Chan, a departmental manager of TDM, purchased computer information facilities for TDM, corrupt practices were committed during consultation and contract awarding. According to investigations, he was suspected of not pursuing fair and reasonable principles and recused

himself during the purchase. As a result, several computer facility contracts were awarded to the company run by Chan's wife. The case was referred to the Public Prosecutions Office on 29<sup>th</sup> March 2006.

## June

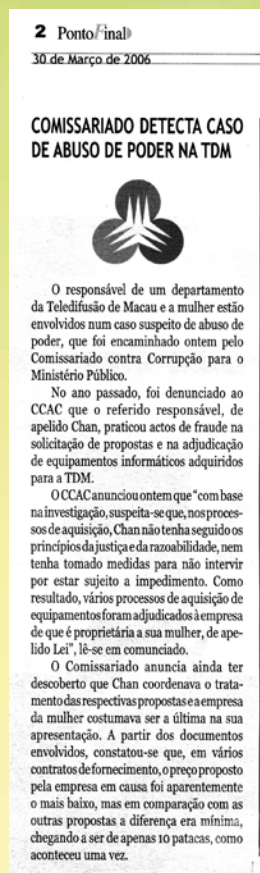
A case was disclosed in which public servants were suspected of allowance cheat. The CCAC received complaints that assistant members of staff of the Macao Foundation fabricated attendance and overtime work records in order to claim allowance. Investigations revealed that 2 members of staff of the UNESCO Centre of Macau, surnamed Lai and Leung, claimed allowance on many occasions by asking security personnel to "punch" their cards for them due to late arrival, early leaving and time off in the Mainland. The 5 suspects in this case were referred to the Public Prosecutions Office on 14<sup>th</sup> June 2006.

## July

A public servant was suspected of housing allowance cheat. The CCAC received a complaint that a former member of staff of the Macao Monetary Authority had cheated his housing allowance. Subsequent investigations revealed that the staff member had illegally obtained more than MOP90,000.00-worth of housing allowances, of which MOP14,000.00 was gained by fraud and fabrication of documents. The case was referred to the Public Prosecutions Office on 27<sup>th</sup> July 2006.

## July

The CCAC disclosed a case in which a member of staff of the Civic and Municipal Affairs Bureau cheated family and housing allowances. Investigations revealed that the staff member, surnamed Chan, was suspected of taking advantage of 2 colleagues' trust, and fabricated a false declaration statement which meant Chan's marital status qualified him for family allowances during 2002 and 2004. Chan defrauded the sum of MOP23,000.00s in family allowance. In addition, during this period Chan was suspected of forging another person's signature many times to fabricate rental sheets for the application of housing allowance from the government. A total of MOP35,000.00-worth of housing allowances was stolen. The case was referred to the Public Prosecutions Office on 27<sup>th</sup> July 2006.





## August

The CCAC uncovered a case of governmental subsidy cheat. According to a complaint received by the CCAC, the chairman of a Macao boxing association surnamed Cheang made a false report to the Macao Sports Development Board about the number of participants taking part in an overseas competition in order to fraudulently obtain government subsidy. Cheang was suspected of fabricating documents and fraudulently obtaining over MOP50,000.00 in subsidy. The case was referred to the Public Prosecutions Office on 24<sup>th</sup> August 2006.

## August

The CCAC uncovered a case in which 2 public servants had abused their power. 2 senior staff members of the Finance Services Bureau were suspected of retaining items originally for direct sale by abuse of power. The case was referred to the Public Prosecutions Office on 25<sup>th</sup> August 2006.

## November

A case of public servant receiving bribes was uncovered. The CCAC investigations revealed that a TDM staff member surnamed Leong had rented his own car company license to a friend since starting employment with TDM in 1989 at a monthly rental of MOP2,000.00. Leong took ad-

vantage of his position in TDM to pass most of the TDM cars to the above car company for maintenance. Some 10% of the maintenance fee was taken by Leong as commissions. Records from 2000 to 2005 revealed that this TDM staff member had accepted commissions more than ten times, which constituted the offence of “accepting bribes for performing legal acts”. The case was referred to the Public Prosecutions Office on 29<sup>th</sup> November 2006.

### Macau/Delta

SEG 28 de Agosto de 2006

Ponto Final

#### Suspeita de abuso de poder nas Finanças

O Comissariado Contra a Corrupção anunciou ter enviado para o Ministério Público um processo de abuso de poder envolvendo um subdirector e um chefe de departamento dos Serviços de Finanças.

O caso diz respeito a uma venda directa, em Março de 2005, de bens abatidos à carga e apreendidos pela Administração, organizada pela Direcção dos Serviços de Finanças (DSF). Os envolvidos terão retido alguns bens destinados à venda, aproveitando-se das suas funções, para depois os adquirirem por metade do preço.

Após investigação, descobriu-se que no caso estiveram envolvidos um subdirector e um chefe de departamento, nomeados, respectivamente, presidente e suplente do presidente da comissão de avaliação e da comissão de vendas para a referida venda directa. Suspeita-se que, antes do início da venda, tenham sido dadas instruções aos funcionários para que alguns dos bens fossem retirados. Logo que a comissão anunciou a venda dos bens remanescentes, por metade preço, os dois suspeitos terão adquirido os referidos bens retidos.

## 4.4 Mutual Case Assistance in Cross-Regional Investigations, Exchange and Training

### 4.4.1 Mutual Case Assistance in Cross-Regional Investigations

In 2006, the CCAC assisted law enforcement agencies outside Macao in investigating 30 cases. In addition to the 15 cases forwarded from 2005, a total of 45 cases continued to undergo mutual investigation. By the end of 2006, the CCAC completed 26 cases on a mutual assistance basis. 19 cases are still under investigation. Likewise, the CCAC requested law enforcement agencies outside Macao to assist in the investigation of 8 cases.

The requests for mutual assistance in investigations received by the CCAC mainly came from the law enforcement departments of Mainland China and Hong Kong. Other requests came from law enforcement agencies in the US, Indonesia and Taiwan. In 2006, the CCAC succeeded in reclaiming illegal property in the amount of approximately MOP1.3 million. for law enforcement agencies outside Macao. Moreover, through cooperation with related Macao government departments, individuals who had made use of illegal assets for investment to obtain their investment-immigration rights in Macao were disqualified. In addition, the CCAC requested assistance in investigation and evidence collection from the law enforcement agencies of Mainland China, Hong Kong, Australia, Thailand, Singapore and other countries and regions. A good collaborative relationship with the law enforcement agencies of these countries and regions is established.

The CCAC organized the 2<sup>nd</sup> Symposium on Mutual Case Assistance – Guangdong, Hong Kong and Macao from 14<sup>th</sup> to 16<sup>th</sup> September 2006. In addition to the mutual-assistance personnel and associations of the 3 regions, the symposium also invited representatives of the Supreme People's Procuratorate as well as the Hong Kong and Macao Affairs Office of the State Council to



2<sup>nd</sup> Symposium on Mutual Case Assistance – Guangdong, Hong Kong and Macao

the symposium. In the symposium, the 3 parties had in-depth discussions regarding the practical problems they encountered during joint-investigation work. All representatives introduced the commencement procedure for mutual case assistance within their own scope. They dis-

cussed the procedure of arranging witnesses for cross-regional testimony as well as assistance in retrieving illegal property. A common agreement was made between the representatives regarding the issue of escort duties pertaining to evidence collection in other regions.

#### 4.4.2 Training

The CCAC has always been dedicated to improving the abilities of its investigators. In 2006, the CCAC staff attended many training courses, including two visits to the Chinese People's Public Security University for professional investigation-related training. The CCAC also sent two investigators to the Independent Commission against Corruption of Hong Kong for four months' training. Two groups were sent to Singapore for investigation training of different content. At the same time, the CCAC also invited Professor Bi Xiqian, an expert from the Chinese People's Public Security University, to Macao in order to hold a training course on special topics of interrogation skills. The course was attended by the CCAC investigators.

In addition, the CCAC conducted strict and comprehensive training for newly recruited investigators. The training period lasted for 17 weeks in locations such as the Mainland, Hong Kong and Macao. Trainers included not only the CCAC leaders and experienced investigators but Macao judges, prosecutors and university professors. The training content involved legal knowledge, criminal investigation skills, physical training, photographic skills, first aid, weapon usage, etc.



Professor Bi Xiqian of the Chinese People's Public Security University lectured investigators





Shooting training



Graduation ceremony of trainees

#### 4.5 Cases Adjudicated by the Court

In 2006, the court adjudicated on a total of 8 cases uncovered by the CCAC. Some 46 suspects were found guilty, registered an increase of 167% and 318% respectively compared to 2005 while 3 cases were uncovered and 11 suspects found guilty. The number of people

involved reached the highest record over recent years. Suspects included a member of the former Finance Services Bureau who was on escape for years had been finally arrested and imprisoned. A customs officer convicted of receiving bribes was also imprisoned. It was also the first time that over 30 several defendants were found guilty of electoral crimes.

Table 13  
Excerpts of court verdicts in 2006

Date of sentence	Defendant/Suspect	Status of defendant/suspect	Verdict
09/02/2006	Fernando Valentim da Silva Nogueira	Staff of former Finance Services Bureau	Defendant absent from trial, having absconded overseas for several years but arrested upon entry in 2006. After hearing, the collegial panel upheld judgement that the defendant was guilty of 7 counts of embezzlement and 5 counts of fraud. Judge noted that in the first trial defendant was sentenced to 15 years imprisonment and fined a penalty of 340 days (at MOP20.00 per day, totalling MOP6800.00). Due to the current, amended, <i>Penal Code</i> , defendant was found guilty on same counts but sentenced to 10 years imprisonment. Since the penalty was less severe under current <i>Penal Code</i> than former <i>Code</i> , less severe sentence of 10 years was passed upon defendant. In addition, defendant ordered to compensate 5 victims in total amount of more than MOP10 million (embezzled amount) with interest.
04/05/2006	Cheang Weng Kai	Policeman from Inspection Unit of former Marine Police	As defendant opted to confess in court and had returned defrauded amount to Pension Fund, judge convicted defendant of fraud and fined him for 90 days (MOP50.00 per day, totalling MOP4,500.00). If payment had not been made defendant would have been sentenced to 60 days imprisonment.
08/09/2006	Lok Kam Hong	Senior customs officer	Found guilty of receiving bribes and sentenced to 2 years and 9 months imprisonment without probation.
	Cheong Io Kun	Foreign wine shop owner	Found guilty of bribery and sentenced to one year's imprisonment without probation.
14/09/2006	Loi Man Heng	Car cleaning company staff	Found guilty of fraud, bribery and forging documents of special value; sentenced to 4 years and 9 months imprisonment without probation.
	Ku Chan Tong	Policeman in Traffic Department of Public Security Police Force	Found guilty of fraud, receiving bribes and forging documents of special value. The defendant was sentenced to 3 years and 6 months imprisonment without probation.
	Lou Chi Hong	Driver	Found guilty of fraud and forging documents. Consolidating with past criminal offences, defendant sentenced to 3 years imprisonment with 4 years probation.

Date of sentence	Defendant/Suspect	Status of defendant/suspect	Verdict
14/09/2006	Ng Ion Wa	Car company owner	Found guilty of fraud and sentenced to 3 years imprisonment with 3 years probation.
	Leong Choi I	Accountant in casino VIP hall	Found guilty of fraud and forging documents, sentenced to 2 years and 6 months imprisonment with 3 years probation.
	leong Ka Lok	Staff of acoustic car equipment company	Found guilty of fraud, sentenced to 2 years and 3 months imprisonment with 3 years probation.
	Lei Kit Un	Casino supervisor	Found guilty of fraud and forging documents, sentenced to 1 year and 10 months imprisonment with 2 years probation.
	Sin Tat Keong	Renovation worker	Found guilty of fraud and forging documents, sentenced to 1 year and 9 months imprisonment with 2 years probation.
	Chan Pan Wai	Cargo delivery driver	Found guilty of fraud, sentenced to 1 year and 6 months imprisonment with 2 years probation.
27/10/2006	Wat Kuai Heng	Auxiliary officer of the University of Macau Library	As defendant was returning money by instalments and was the first time defendant had committed a crime, collegial panel pronounced defendant guilty of fraud and sentenced to 1 year imprisonment with 2 years probation.
08/11/2006	Sio Hong Wai	Real estate agent	Found guilty of retention of voter registration cards, sentenced to 1 year and 6 months imprisonment without probation.
	Chong Wai Chon	Mineral water deliverer	Found guilty of retention of voter registration cards, sentenced to 1 year and 4 months imprisonment without probation.
	Tai Chou Un	Casino waiter	Found guilty of retention of voter registration cards, sentenced to 2 years imprisonment with 4 years probation, on condition of MOP10,000.00 fine to be paid to Macao SAR government within 3 months.
	Lok Chan Fong	High school student	Found guilty of retention and provision of voter registration cards, sentenced to 1 year and 9 months imprisonment in total with 3 years probation on condition that MOP5,000.00 fine to be paid to Macao SAR government within 3 months.
	Ku Kin Long	Casino dealer	Found guilty of retention of voter registration cards, sentenced to 1 year imprisonment with 3 years probation on condition that MOP5,000.00 fine to be paid to Macao SAR government within 3 months. Defendant's behaviour to be observed during probation and regularly monitored for progress by judge and Society Rehabilitation Office.
	Wong Sai Hong	Renovation worker	Five defendants found guilty of provision of voter registration cards and a fine of 120 days was to be paid to Macao SAR within legal period (MOP100.00 per day, totalling MOP12,000.00). If payment not made within set period, defendant to be imprisoned 80 days.
	Lei Weng Fat	Renovation worker	
	Ho Chak Pan	Hotel bell attendant	
	Lam Pui Leng	Casino waiter	
	Wong Cheok Kit	Casino dealer	
	Kuok Si leng	High school undergraduate	Both defendants found guilty of provision of voter registration cards and a fine penalty of 120 days was to be paid to Macao SAR within legal period (MOP60.00 per day, totalling MOP7,200.00). If payment not made within set period, defendant to be imprisoned 80 days.
	Kuan Mou Keong	University student	



Date of sentence	Defendant/Suspect	Status of defendant/suspect	Verdict
15/12/2006	Leong loi Sang	Construction worker	Found guilty of electoral corruption and retention of voter registration cards; sentenced to 2 years and 6 months imprisonment without probation. Defendant deprived of political rights for 4 years.
	Kou Wai Man	Construction worker	Both defendants found guilty of electoral corruption and retention of voter registration cards; sentenced to 2 years imprisonment without probation. Defendants deprived of political rights for 4 years.
	Kuok lok U	Former cross-border trader, now unemployed	
	Kuok Mun Wa	Construction worker	Found guilty of electoral corruption and retention of voter registration cards; sentenced to 1 year and 3 months imprisonment without probation.
	Fong Pak Keong	Construction worker	Found guilty of electoral corruption and retention of voter registration cards; sentenced to 9 months imprisonment without probation. Defendant deprived of political rights for 4 years.
	Lei Lai Peng	Housewife	Both defendants found guilty of electoral corruption and retention of voter registration cards; sentenced to 9 months imprisonment without probation.
	Lin Kin Hou	Casino public relations officer	
	Leong Kuan Meng	Gambling agent	Found guilty of electoral corruption and retention of voter registration cards and was fined a penalty of 300 days (MOP100.00 per day, totalling MOP30,000.00).
	Chan A Chan	Bar waiter	Found guilty of electoral corruption and retention of voter registration cards and was fined a penalty of 240 days (MOP100.00 per day, totalling MOP24,000.00).
	Lao Sin U	Temporary construction site worker	All 4 defendants found guilty of electoral corruption and retention of voter registration cards and each was fined a penalty of 180 days (MOP100.00 per day, totalling MOP18,000.00).
	Lei Kin Keong	Property manager	
	Ho Ka Kei	Casino dealer	
	Fong Kai Wa	Casino dealer	
	Kuong Un Pan	Form 6 high school student	Found guilty of electoral corruption and retention of voter registration cards and was fined a penalty of 180 days (MOP60.00 per day, totalling MOP10,800.00).
05/01/2007	Cheong Weng Kai	Casino bar counter attendant	Found guilty of electoral corruption and sentenced to 1 year and 8 months imprisonment without probation.
	Ip Chin Cheng	Casino dealer	All five defendants found guilty of electoral corruption and each was fined a penalty of 270 days (MOP100.00 per day, totalling MOP27,000.00).
	Lao Chi Hou	Bar counter attendant	
	Ho lok Sim	Gambling slot machine attendant	
	Ho lao Pong	Casino dealer	
	Lam Chi Seng	Casino bar captain	

#### 4.6 Declaration of Incomes and Properties

The system of declaration of incomes and properties is an important preventative and monitoring system over the property status of public servants. The CCAC conducts safekeeping,

filing and monitoring of the property declarations of Macao public servants within its scope of power. According to the current legal provision, public servants must declare their personal income and property and that of their spouse or anyone who has a spouse-equivalent living status upon start of employment, position transfer, resignation or every five years.

At the same time, according to paragraph 5 of article 4 of Law No. 10/2000, the CCAC supervises the standard and administrative correctness of any action involving properties and benefits. Since the law of Declaration of Incomes and Properties was put into practice, no declarer has had to suffer the legal consequences of inappropriate implementation of declaration duties. The work of property declaration has thus achieved the anticipated effect.

In 2006, the CCAC received property declaration forms from 7,791 public servants, including 2,343 staff upon start of work, 2,794 on position transfer, and 1,302 on resignation, 458 who were required to submit renewed property declarations upon expiry of five years and 29 who volunteered to renew their property data. Another 865 individuals pursued their duty of data provision as a spouse or with spouse-equivalent status.

Table 14  
Number of individuals submitting property declaration form in 2006

Start of employment	2,343
Position transfer	2,794
Resignation	1,302
Five-year renewal	458
Voluntary renewal	29
Pursuit of data-provision duty	865
<b>Total</b>	<b>7,791</b>

In addition, the CCAC continued to hold seminars of Declaration of Incomes and Properties for departments with a great number of newly recruited staff in 2006. This was done to imbue new staff with a deeper knowledge of the meaning, importance and legal implications regarding the implementation of property-declaration duties. During the seminar, new staff also learned how to correctly complete the property declaration form.



# **CHAPTER V**

## **THE OMBUDSMAN**

## Chapter V – The Ombudsman

In 2006, the CCAC recorded 254 administrative complaints, a 15.5% increase compared with the previous year. The contents of the cases mainly involved the legal system governing public services, municipal affairs and governmental operation. The CCAC carried out in-depth investigations into three of these cases with recommendations made. In addition, the CCAC recorded 753 requests for help and consultation, with a great increase in cases relating to economic and social housing, illegal labour and traffic offences.

In terms of research and investigation in 2006, the CCAC completed two projects of system on research projects, namely the Research and Analysis of Improving the Election System of the Legislative Assembly and the Examinations on the Power of Intervention of the Public Administration Concerning the Misuse and Poor Management of Private Premises. The relevant reports were submitted to the administrative authorities. In terms of research on operation, the Land, Public Works and Transport Bureau became a new collaborative partner; the CCAC investigated the handling procedures of illegal construction projects that society has long been concerned about, and also followed up on the enforcement measures designed to improve the operations of the Civic and Municipal Affairs Bureau and of the Health Bureau.

The CCAC published *Selected Cases of the Ombudsman* in 2006 in order to disseminate information to citizens and public servants about the operation of the Ombudsman Bureau. At the same time, the CCAC continued to co-organise the symposium “Defend Your Rights” with community associations to foster a stronger sense of defending personal legal rights and interests among citizens. In the realm of public services, the CCAC continued to follow up and assist all departments and institutions in formulating internal codes of conduct. Talks were given on “Professional Ethics and Conduct” and “Public Procurement” according to the respective needs of these departments and institutions.

To promote research on ombudsman systems in Macao, the CCAC and the Macao Foundation co-organised the “Research Awards on Comparative Studies of Ombudsman Systems in Asia”. In terms of training, the CCAC assigned staff to attend investigation courses held jointly by the CCAC and the Chinese People’s Public Security University. The CCAC also sent staff to Hong Kong to attend the command course held by ICAC. Local judges were also invited to conduct internal staff training.



## 5.1 Investigation

### 5.1.1 Case Intervention

#### 5.1.1.1 Cases Recorded and Processed

In 2006, the CCAC recorded 254 cases of administrative complaint - a 15% increase as compared with the 220 cases recorded in 2005. This could be attributed to the CCAC's active promotion of the ombudsman and the strengthened functions of the branch office that was "well engaged within the community". It was also due to the fact that citizens boldly reported administrative illegalities or malpractices. In summary, administrative complaints in 2006 primarily involved the legal system governing public services, municipal affairs and illegal constructions.

Table 15  
Content classification of administrative complaints in 2006

Problems involved	Number
Legal system governing public services (staff rights and interests, recruitment, internal management, discipline and abuse of power)	87
Municipal affairs	36
Illegal constructions	33
Traffic offences	16
Public procurement	8
Economic and social housing	7
Occupational health and safety	7
Insurance	4
Irregularities in other administrative procedures	54
Beyond the competence of the CCAC	2
<b>Total</b>	<b>254</b>

Cases of administrative complaints recorded in 2006 were added to the 34 cases brought forward from 2005 and 28 overlapping cases were excluded. As a result, a total of 260 complaints had to be processed throughout the year, of which 203 were handled and filed, accounting for 78% of the total.

Some cases were filed due to lack of evidence of administrative illegality or malpractice. Others were filed because they were handled by their respective departments through the formal or informal intervention of the CCAC. Some cases were filed because they fell beyond the competence of the CCAC or lack of evidence to be followed up, etc. Of the filed cases, some 45 were handled by respective departments or institutions via the intervention of the CCAC, including a case formally commenced with recommendations made. Such filed cases accounted for 22% of the total, an increased percentage compared with the past few years. This suggests that if suitable handling measures of the ombudsman are carried out according to the nature of the cases and issues involved, the problems of administrative illegality and malpractice can be solved more effectively and promptly. Consequently, the Ombudsman can play a more prominent part in defending the legal rights and interests of citizens.

Table 16  
Administrative complaints in 2006

Reasons for case filed	Number
No sign of administrative illegality or malpractice	118
Handled by respective departments (by referral, informal intervention or advice/suggestions of the CCAC)	45
Lack of evidence	29
Beyond the competence of the CCAC	5
Others	6
<b>Total</b>	<b>203</b>

#### 5.1.1.2 Investigations Commenced

During 2006, the CCAC completed 3 cases of administrative complaint, which were commenced for investigation and recommendations and suggestions were made. These included

the “The academic qualifications screening scheme and the appointment of a disciplinary procedure pre-examiner for recruitment purposes” and “The absence of pregnant public servants resulting from prenatal care/checkups”. Other matters involved the “Stipulations of minors’ responsibility of illegal acts under the General Regulations for Public Areas”. A summary of the related cases is stated in the appendix.

### 5.1.2 Request for Help and Consultation

The CCAC recorded a total of 753 requests for help and consultation in 2006, a nearly 24% increase. The types of cases with the most remarkable increase included economic and social housing (four-fold increase), illegal labour (doubled), and traffic offences (an 80% increase), reflecting the primary problems of citizens’ livelihood about which society expressed concern.

Requests for help and consultation beyond the competence of the CCAC constituted 16% of the total - a similar percentage to that of 2005. It is of concern that 35% of the requests related to the private sphere in both 2005 and 2006. In fact, many problems which citizens complained about to the CCAC were beyond its competence. Some of these cases involved private acts of corruption and malpractices, suggesting that many citizens believe that the CCAC should be empowered to cope with these problems.

On the other hand, requests for help and consultation relating to the *Guidelines on the Professional Ethics and Conduct of Public Servants* in 2006 registered a 30% drop compared with 2005. This was mainly because all departments and institutions had basically formulated and enforced their internal codes of conduct while the CCAC had been providing help in refining the codes to ensure their effective enforcement.

Table 17  
Classification of requests for help and consultation in ombudsman areas in 2006

Issues involved	Number
Legal system governing public services (staff rights and interests, recruitment, discipline and declaration of income and property)	174
Municipal affairs	72
Guidelines on the Professional Ethics and Conduct of Public Servants	61
Traffic offences	58
Disputes between employers and employees	40
Economic and social housing	25
Illegal constructions	24
Public procurement	15
Tax affairs	15
Illegal labour	14
Medical and health care	13
Social Security Fund	11
Employment training	6
Education	6
Others	95
Beyond the competence of the CCAC (private sector and lawsuits)	124
<b>Total</b>	<b>753</b>

## 5.2 Researches and Examinations

### 5.2.1 Researches and Examinations on Systems

In terms of researches and examinations in 2006, the CCAC completed two projects of research on system, namely the Research and Analysis of Improving the Election System of the Legislative Assembly and the Examinations on the Power of Intervention of the Public Administration Concerning the Misuse and Poor Management of Private Premises. The relevant reports were submitted to the administrative authorities, with conclusions as follows:

### 5.2.1.1 Research and Analysis of Improving the Election System of the Legislative Assembly

In recognising Macao as part of China, Portugal historically granted Macao the right to administer its own legislative body despite its continued rule over the territory. This legislative power was shared by the Legislative Assembly and the Governor. Some of the members of the Legislative Assembly were appointed by the Governor while others were elected via direct and indirect methods.

Before the handover, the extent to which the Legislative Assembly could truly exercise its legislative power and enact laws was far inferior to that of the Governor due to many factors. Macao governing policy was still dominated by the Portuguese authorities in Macao. Macao people played a relatively passive role in the Legislative Assembly. Their main influence was to give opinions targeting the governing policies of the Portuguese authorities in Macao, to voice opinions about whether their policies would conflict with Macao society overall or create great impact to the society. Thus, Macao legislators played a more prominent role in balancing the policies of the Portuguese authorities in Macao. The advantages of the legislators and the interest groups they represented were not clearly reflected. In such an environment, no genuine competition took place in either direct or indirect elections for a long time. Only when the handover to China was imminent did more special-interest groups realise that if they won a seat in the Legislative Assembly they could fight on behalf of their own interests and of the constituencies they represented. Thus, the election became fiercely contested. Public opinions condemned the Legislative Assembly Election in 1996 as severely corrupt.

Following the handover – under the premise of the state governing principle of “Macao people running Macao” - the separation between the Macao Portuguese authorities and Macao local legislators no longer existed in the Legislative Assembly as it had in the past. Although the electoral regulations differed little from the past, all the Legislative Members were Macao



residents, whether nominated by the Chief Executive or elected by direct or indirect election. They were not distinguished by governing concept. In addition, most of the Members had a background of community association involvement, while the associations were the core organizations that supported the related members to enter the direct and indirect election. Consequently, many people categorize Members in terms of the interest groups they represent, reinforcing the opinions that Members are motivated by self-interest: specific interest group (community association) - candidate - candidate elected - elected Member and related interest group benefit mutually from government policy. According to the CCAC's experience of the first and second Legislative Assembly elections, such interactive and mutually-beneficial effects resulted in the situation that the community associations, almost entirely free from system supervision, played an important role in the elections. These associations have been seen as a tool for "vote-buying" or "canvassing targets" by political groups and individuals intent on gaining a seat in the Legislative Assembly. Moreover, large-scale enterprises could take advantage of their employer status and their great number of staff to "lobby" votes. The electoral activities that took place under such circumstances were covered in the shadow of electoral corruption. The integrity of the Macao SAR was severely impinged. The CCAC analysed the situation before, during and after the elections. In terms of practical operation, a comparison of the electoral systems was also made among Macao and Hong Kong, Portugal and Taiwan. In-depth studies were carried out regarding the role of community associations in political activities and whether the association system could be adapted accordingly. In summary, several perspectives were offered as follows, for the purpose of improving the election system of the Legislative Assembly:

1. The Election Committee takes prompt action against any electoral propaganda acts that breach electoral regulations to ensure the justice and fairness of an election. It also plays an important part in fostering a fair and just image of the Legislative Assembly Election. In order to enable the Election Committee to fully play its part in supervising the election, and to promptly target and prevent regulation infringements, it is essential to establish the Election Committee as a standing body to ensure that electoral activities are conducted in good order.
2. Some forgery acts regarding voter registration – using false information to cause cancellation of valid voter registration, for example - are not listed under the sanctions scope of the current Macao Electoral Registration Law. As a result, loopholes have



appeared. It is therefore necessary to stipulate an inclusive regulation covering all forgery acts that are not directly subject to current regulations.

3. In order to refine current electoral regulations, it is suggested that Macao draw partly on the legislative experiences of Hong Kong, Portugal and Taiwan.

- 3.1 The following five initiatives could profitably be introduced from Hong Kong, regarding its definition of electoral corruption crime and its restriction of electoral propaganda and expenditure:

- a) Criminalize the corrupt acts of bribing candidates or potential candidates;
- b) Introduce Hong Kong's stipulation regarding "the corrupt act of bribing voters or others in elections" to counter i) enticement of others to register as voters in order to influence their voting intention; ii) vote buying and selling in other formats; and iii) bribing community association leaders or proffering subsidies to the associations in exchange for votes and other fraudulent acts. Such acts should be penalized;
- c) By defining the format of an "electoral gathering", formally restricting hospitality extended to influence voting intention, including the provision of food and beverages, entertainment and travel;
- d) Individuals incurring electoral expenditure without authorization should be penalized in order to prevent inappropriate acts of electoral propaganda through others and any evasion of the maximum limit of electoral expenditure;
- e) Reduce the maximum electoral expenditure to a reasonable level in order to prevent create an unfair phenomenon of "money election".

- 3.2 As for the legal system of Portugal which is deeply related to Macao, the following four aspects of the current Portuguese electoral system can serve as a reference in terms of the establishment of penalty and the definition of all kinds of electoral corruption:

- a) Since vote buying and selling cause great harm to electoral propriety and the reputation of the regional political system, no reduction of penalty is allowed for any attempted acts. In other words, the same penalty is applicable for both attempted/unaccomplished crimes and committed crimes;

- b) Apply open-style clauses and inclusive terminology in order to plug loopholes and punish all acts of forgery, fraud, threat, vote buying and selling;
- c) Target occupational threat. Despite the similarity between the regulations of the Macao Electoral Law and those of Portugal, the Macao labour law has failed to sufficiently protect employees' rights. As a result, the mechanism that specifically prevents occupational threat in elections has not produced any practical effects. Therefore, it is necessary to enhance the protection of employees' rights;
- d) Apply the expression of "buying and selling votes" to cover all acts of obtaining votes by any means of enticement by promise of gain.

3.3 The election system of Taiwan, which also advocates capitalism in a Chinese society, also provides references in the following four aspects:

- a) Stipulate by legislation that it is illegal to provide benefits to the leaders of community associations or to proffer subsidies to the associations in exchange for the votes of their members;
- b) Formally introduce the "indemnified witness" system to give duped voters, upon receipt of bribes, a chance to make amends for their crimes;
- c) Establish as many polling stations as possible to reduce the attractiveness for voters of accepting free transportation to the polls;
- d) Stipulate that all relevant departments and institutions must report to the anti-electoral-corruption agency any suspicious acts of money laundering so as to make the activities against electoral corruption more proactive and effective.

4. The following four suggestions provided by the CCAC address the issues that impede clean elections but cannot merely draw on the experiences of overseas practices:

- 4.1 Cancel voter registration cards in order to create more difficulty in instigating vote buying and selling activities;
- 4.2 Alternatively, send voter registration cards by registered mail, or stipulate that voters must obtain voter registration cards in person or through an authorized third party to ensure that voter registration cards reach genuine voters;

- 4.3 Restrict all public department leaders or public servants in charge of specific duties from conducting electoral propaganda in public to ensure the neutrality of the administrative authorities;
- 4.4 Strengthen the protection of labour rights, especially by imposing tighter restrictions or increasing compensation in regard to employers terminating a contract, to prevent or reduce any occupational threat during an electoral campaign.
5. While community associations are the core organizations that carry out political activities and exercise political rights for Macao citizens, many imperfections exist in the current association system. This system negates the protection of the image of neutrality of the administrative authorities; moreover, it is difficult to define and account for electoral expenditure, making it hard to monitor the source of electoral expenditure; the qualification of “corporate voters” for indirect election fails to reflect the degree to which they can represent and be recognized in their related constituencies. Therefore, from a long-term perspective, it is necessary to consider the following policies:
  - 5.1 Redefine the core organizations of political activities, especially the regulations of those political organizations which currently exist to no practical effect;
  - 5.2 If the current situation - any community association can assume a pivotal role in political activities - is retained, it is necessary to refine the current regulations of community associations, especially in terms of the following four aspects:
    - a) In terms of association formation, requirements must be made on the proportion of members with Macao residency status. Limits of minimum numbers of members should be imposed upon community associations, or at least upon the community associations eligible as corporate voters.
    - b) Stipulate a suitable monitoring system for accounting, especially regarding income sources and expenditures. Also, specify the mechanism of announcement under certain circumstances;
    - c) It is necessary to set a higher threshold for corporate voters in indirect elections. In terms of application for corporate voters, the authorities should necessarily consider whether the association can represent the intended interest constituency and be

recognized to a certain extent. In addition, it is essential to consider the distribution of voting rights, lest the associations which were established purely for election purposes should obtain the same number of votes as those associations that have engaged in long-term practical operations with greater recognition and higher representation. In addition, for the community associations that apply to be corporate voters, it is equally necessary to examine whether most of their members have joined another association that already has corporate voter qualification in order to prevent “shadow community associations” from influencing elections;

- d) Stipulate the mechanism of cancelling corporate voter qualification to ensure that corporate voters have at least minimal recognition and representation, especially to eliminate associations that have not been in operation for a long time and become active at election time only.
- 6. Last but not least, electoral corruption largely occurs in a society with a weak sense of civic duty. If the acts of buying and selling votes commonly occur in a society, electoral bribers can easily find voters willing to sell their votes “on the market”. Therefore, systematic and long-term civil education must be initiated to convey to the people about the harm created by electoral corruption. It is also necessary to specifically strengthen the civil responsibility of citizens so that they will be capable of resisting enticement by bribers. Such will therefore play a positive effect in preventing or reducing electoral frauds.

#### *5.2.1.2 Examinations on the Power of Intervention of the Public Administration Concerning the Misuse and Poor Management of Private Premises*

Under the principle of respecting private property rights, the administrative authorities cannot easily intervene in the use and management of private housing. However, when the use and management of private housing causes harm to the public interest, the administrative authorities should intervene according to the law. If the current regulations are not sufficient, the authorities should amend the regulations or formulate new regulations; if the acts of intervention are not effective, the authorities should improve the operations.

The typical situations which harm the public interest due to misuse and poor management

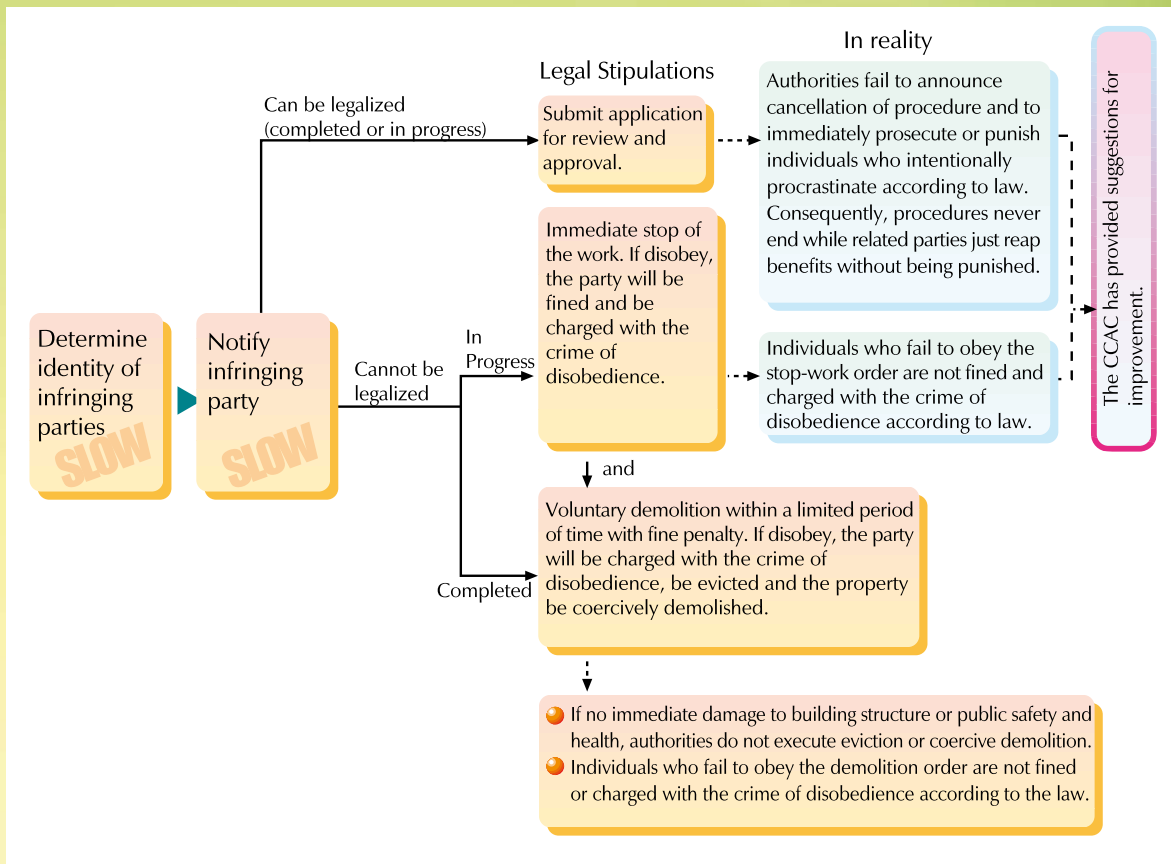
of private premises primarily include change of property usage, illegal construction, causing annoyance to neighbours, occupation of public area in buildings, etc.

The issues mentioned above are mainly due to the owners' lack of legal knowledge, absence of owners' association and of the Regulations of Condominium and the difficulties in fulfilling the demanding legal procedures. When citizens fail to solve problems involving the use and management of private housing from either subjective or objective perspectives, they often turn to the administrative authorities for solutions. While most of these problems constitute acts of administrative infringement, citizens would rather let the authorities to prosecute offenders and penalize them accordingly than negotiate with fellow owners by themselves. However, the current regulations have had a poor effect. On the one hand, the regulations that define infringement have not specified the prosecution procedure. On the other hand, the scope defined by the General Regime is not detailed. The administrative authorities can hardly master the rules to apply the Code of Administrative Procedure and the general principles of the Penal Code and the Penal Procedure Code. Furthermore, the regulations define "coercive demolition" and "coercive restoration" as a final resort without considering the views of society and civil livelihood. Consequently, the penalties exist yet cannot be executed.

Administrative infringement relating to the misuse and poor management of private premises is summarized as following chart:



Chart 1: Procedures carried out by the authorities after verification of illegal constructions



The two “slow” situations mentioned above are primarily due to the fact that the current General Regulation of Urban Construction do not stipulate that the person on the spot is obliged to provide the identification data of the construction supervisor or person-in-charge; neither does it specify that the infringing party is regarded as being notified several days after notification is sent by mail. Although the authorities legally issue temporary and formal stop-work orders, progress is slow because of the absence of the mechanism described above. Moreover, the authorities do not actively adopt any effective measures (e.g. through a property management agency) or eliminate of redundant measures such as in-person notification, slowing down the progress even further.

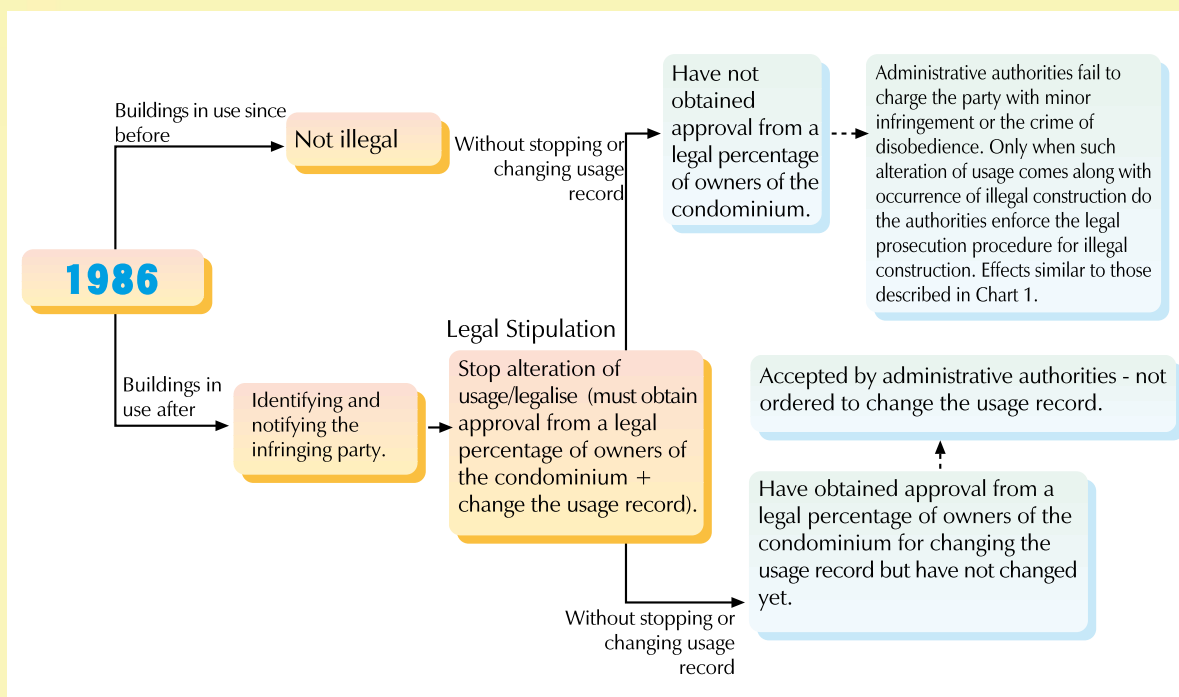
Unauthorised constructions are often “pending to be legalized” for years while the persons concerned are not penalized. Illegal constructions that should be demolished according to the law remain intact. On one hand, the authorities have not executed the regulations (i.e. penalize and charge the persons with the crime of disobedience in a timely manner.) On the other hand, the General Regulations of Urban Construction define the “eviction order” and “coercive



restoration” merely as final resorts. Since these resorts often influence the basic livelihood of citizens, it is hard for the authorities to enforce these measures when the illegal constructions have not caused any harm to the building structure or public health and safety. Therefore, it is necessary to adopt more practical deterrent measures other than these “last resorts”.

In fact, targeting certain problems of the prosecution procedure and sanction procedure for illegal constructions (in the areas of data access, notification, follow-up and prosecution procedure, provision of information, etc.) before law amendments, the CCAC proposed suggestions for improvement to the Land, Public Works and Transport Bureau when collaborating with the Bureau on the research on operation this year. The CCAC also suggested that the Bureau consider exercising its rule-setting power granted by article 76 clause 3 of the General Regulations of Urban Construction to clearly specify the related operation procedure through the order of the Chief Executive.

Chart 2: Mere alteration of property usage of flat function, e.g. residential flat used as community association site/trading company/freelance office

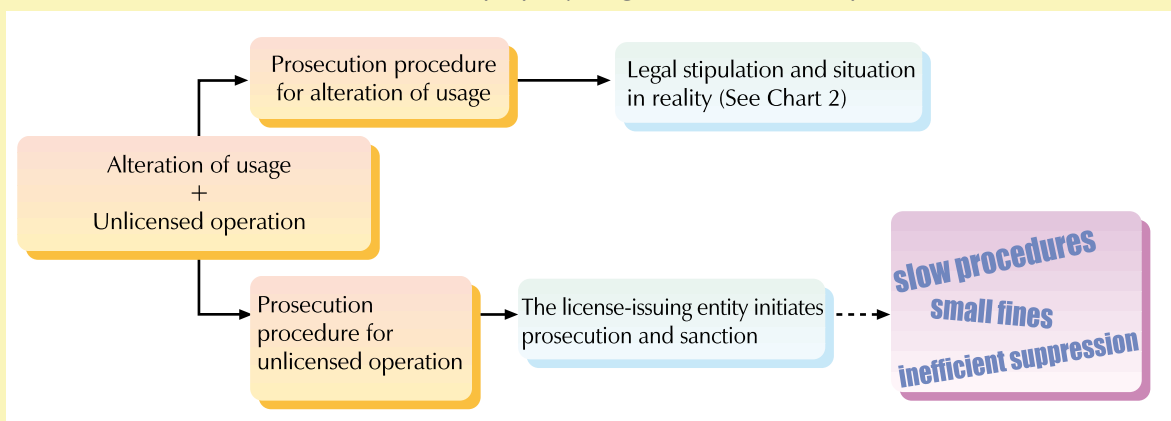


Clearly, with regard to altering the property usage without the consent of the majority of owners, the authorities traditionally do prosecute the concerned party for criminal liability according to the law. Instead, the authorities simply charge and penalize offenders for “illegal construction”. Thus, poor results are unavoidable due to the imperfections of both legislation and law enforcement mentioned above.

For those who fail to obtain enough legal percentage of owners’ approval but can complement the absent percentage through judiciary procedure, the administrative authorities now allow “exemption from judiciary procedure” and “exemption from formal changing of usage record” in order to answer to social reality, since judiciary procedure is both money-and-time consuming, and the formal changing of usage record can affect the market value and salability of the property. However, efficient policies of the authorities should have legal basis; otherwise, they will be challenged legally, resulting in a loss of public credibility.

Moreover, the prosecution and sanction system for misuse is inapplicable to buildings in use since the time before 1986. Regardless, the authorities to date have not adopted any preventive measures in circumstances where buildings with altered usage are aging and may result in structural defects or endanger public safety.

Chart 3: Alteration of property usage with unlicensed operation



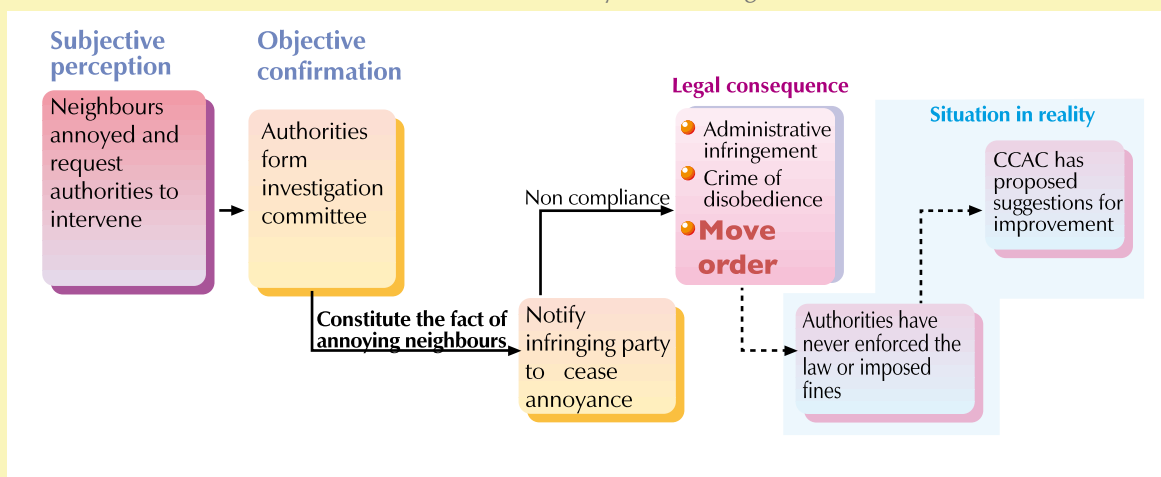
In practice, the authorities only prosecute and penalize the concerned persons by the device of “unlicensed operation”. If illegal construction took place as well, the authorities can follow. Should the prosecution against “unlicensed operation” fail due to difficulty in obtaining evidence, the authorities would not prosecute on the point of causing annoyance to the neighbours even if the alteration of property usage was severe enough to actually trouble the

neighbours. As a result, the infringing individual could escape prosecution due to the imperfection of legislation and law enforcement regarding illegal construction.

For prosecution against “unlicensed operation”, the General Regime is applicable to the relevant licence issuing system; as a result, it takes quite a long time for the prosecution and sanction procedures to conclude. In regard to the problems in the General Regime, the CCAC conducted a research on system in 2006, namely the “Issues on the Prosecution Procedure and Sanction Procedure Against Administrative Infringements”. While some cases could easily be prosecuted, they have no deterrent effect because the fines are too small. As a result, these cases can hardly be suppressed.

Regarding the establishment of illegal inns which have aroused much public attention recently as an example of unlicensed operation, the authorities cannot deny their provision of accommodation as a commercial activity merely based on the fact that their facilities do not meet legal requirements. Problems arise from the authorities’ definition of “presence of the provision of accommodation and ancillary services to the public in commercial format”. There is a distinction between the provisions of an inn accommodation contract and a real estate lease contract of a purely civil affair nature. This problem has been analysed in detail in the third section of this report and will not be elaborated upon here.

Chart 4: Cause of Annoyance to Neighbours



According to the Regulations of the Usage of Urban Real Estate, whether the authorities should intervene in neighbourhood relationships with neighbours relies on the subjective

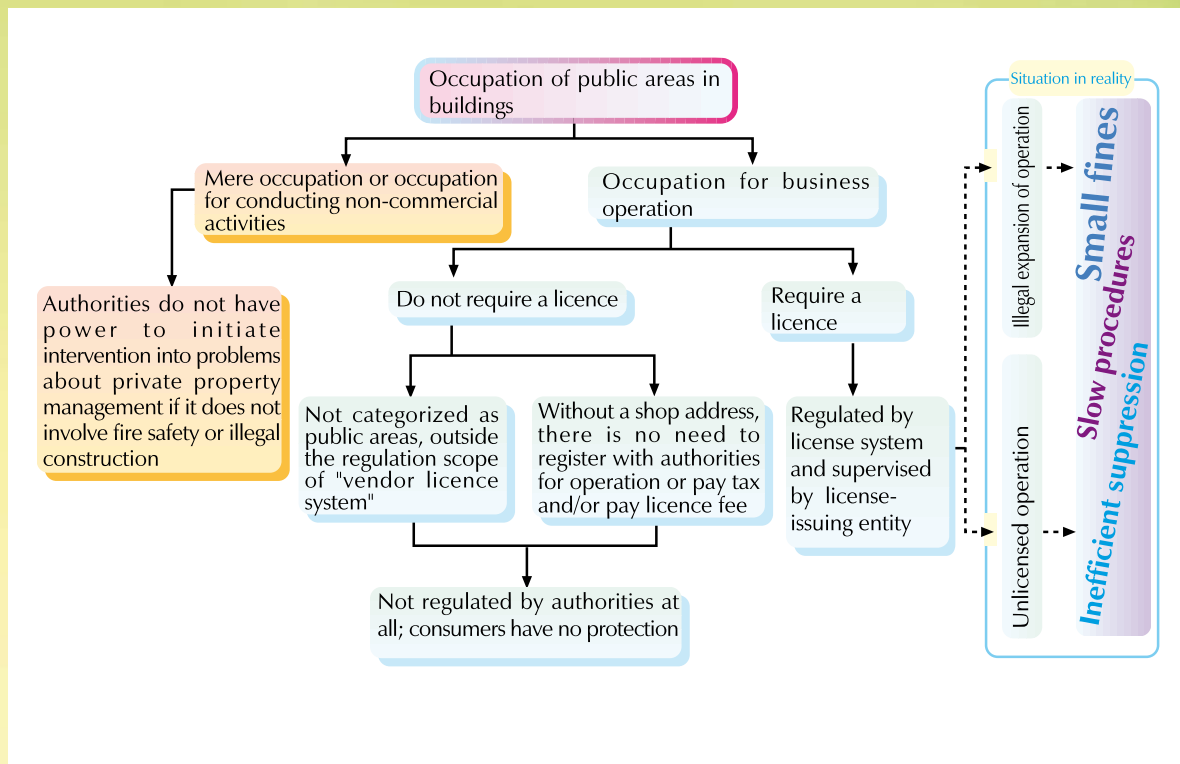
perception of the neighbours and the objective confirmation of the authorities. However, the regulations do not define the scope of “neighbours” and do not state clearly the criteria for “annoyance”, making it difficult to prosecute in reality. Nevertheless, the authorities are blamed for their sluggishness in law enforcement. Even though the administrative authorities seriously enforce the law, it is hard to execute the eviction order as the last resort against offenders who do not comply with the authorities’ order to cease causing annoyance. The authorities therefore often encounter great difficulties when citizens turn to them for help against troublesome neighbours.



The CCAC has suggested that the authorities formulate sanction standards and procedures to protect the public interest, before any amendments can be made to existing laws and that the authorities can provide other suggestions for law amendment after gaining practical experiences.

Chart 5: Occupation of public areas in buildings

(E.g. occupying a building hallway and corridor to sell vegetables, fruits, meat or cooked food; food and beverage establishments occupying the building hallway and corridor for business operation)



The profit-making activities that do not require a licence and that occupy the public area of buildings (e.g. prepared food stalls and fruit juice stalls), are not restricted by the current regulations. If their retail products or food products cause health or safety problems, or arouse consumer disputes, it is hard for the authorities to prosecute them. Since there is no “legal” mechanism of data registration for the operators and their operational status, the authorities cannot protect the rights of consumers. Moreover, the operators are not obliged to pay tax, thus causing unfairness of taxation.

The activities that require a license and occupy the public area of buildings include common infringements such as illegal expansion of operation and unlicensed operation. The authorities have to apply the General Regime most of the time when undertaking related prosecutions and sanctions. As a result, the process is very time-consuming and the fines amounts for certain infringements are too small to achieve a deterrent effect.



Targeting all the administrative infringements mentioned above relating to the misuse and poor management of private premises, the CCAC requested related departments to refine their operations where possible. Suggestions for improvements include strengthening the promotion of the related legal system<sup>1</sup>, and making more owners realize that getting engaged in property management affairs is an important and effective means of defending personal interests. The CCAC will continue to follow up on the process of these issues. In terms of refining legislation, the suggestions are summarised as follows:

## 1. Illegal constructions

- a) Amend the General Regulations of Urban Construction, especially by introducing the following regulations:
  - I. Persons on the spot of illegal constructions are obliged to provide the authorities with identity data of construction supervisor or person-in-charge;
  - II. Stipulate that construction supervisor/person-in-charge is regarded as having been notified once the authority personnel have issued to on-spot persons temporary stop-work order or construction-ban order, or have posted such orders on the spot;
  - III. In regard to notifications of penalty and demolition, stipulate that infringing party is regarded as having been notified several days after notifications are sent by registered mail;
  - IV. Increase penalty or set penal rules against persons who do not voluntarily carry out the demolition, e.g., increase fines, impose trading obstacles, or even stipulate that the related property cannot be transferred before the fine for illegal construction is paid or the illegal construction is demolished (similar to the application of “charging order” in Hong Kong).
- b) Apply the rule-setting power granted by the current General Regulations of Urban

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<sup>1</sup> Lands, Public Works and Transport Bureau regularly educates the public on legal system relating to the Bureau’s responsibilities via regular newspaper columns.



Construction - specify the practical operation procedure and working rules of monitoring illegal constructions (also applicable to annoyance to neighbours) through the order of the Chief Executive.

## **2. Illegal alteration of property usage/cause of annoyance to neighbours**

- a) Amend the Regulations of the Usage of Urban Real Estate
  - i) Separate the handling procedures for the following two cases: 1) a mere change of property usage; 2) change of property usage with unlicensed activities requiring application of administrative licences in advance. If the former case does not annoy neighbours, the administrative authorities should intervene to handle the case after receiving a certain percentage (e.g. over one third) of owners' complaints. In terms of the latter, the administrative authorities should keep the power to initiate intervention;
  - ii) Clearly define the practical legal effects produced by the change of property usage with a certain percentage of owners' approval if not changing the usage record, especially regarding the restrictive power of the approval upon future owners;
  - iii) Clearly define the standards of cause of annoyance to neighbours (if owners' association is established, it is appropriate to stipulate a mechanism to refer to the opinions of the owners' association);
- b) In order to make it easier for the authorities to discover an illegal change of property usage as soon as possible, it is appropriate to strengthen collaboration among departments and introduce a reporting mechanism, enabling the departments responsible for the acceptance of commercial or operation-start registrations to report the related data to the monitoring department;
- c) Introduce a database mechanism to collect the related data of buildings in use since the time before 1986 (e.g. the original and current usages of the buildings);
- d) In regard to the work procedures and regulations for monitoring illegal change of property usage and cause of annoyance to neighbours, it is appropriate to make good

use of the provisions granted by law through providing supplements by the order of the Chief Executive.

### 3. Occupation of public areas of buildings

- a) Evaluate the current regulations in regard to activities that occur in the public area of buildings with free public entry; if the activities may cause harm to public health and safety, it is necessary to clearly grant the administrative authorities the power of direct intervention;
- b) Amend the current Regulations of Industrial Tax and make the business acts taxable or categorise them as commercial activities which require registration;
- c) If the Regulations of Industrial Tax are not amended, review the current Rules Relating to Hawkers to extend the definition of hawkers to include all commercial activities occurring in the public area of buildings; or to at least stipulate that the related commercial operators must register at a specific entity.

### 4. Other regulations

Along with the law amendments relating to the use and management of private premises mentioned above and the refinement of the prosecution procedure, it is appropriate to adjust other related regulations (e.g. the regulations on the use and management of condominium as prescribed in the *Civil Code*) accordingly.

#### 5.2.2 Researches on Operations

In 2006, the CCAC began examining the operations of the Civic and Municipal Affairs Bureau and the Land, Public Works and Transport Bureau. The CCAC also followed up on the enforcement of the improvement measures of the Health Bureau and the Driver's Licence Division under the Traffic and Transportation Department of the Civic and Municipal Affairs Bureau.

##### 5.2.2.1 Civic and Municipal Affairs Bureau

#### Project of Research on Operations

With regard to the joint examination into the operational procedures of the Vehicle Affairs Division of the Traffic and Transportation Department, agreements on the following

improvement measures were made:

1. To make a comprehensive review and amendment to the administrative formalities guidelines to ensure the consistency of the content; to provide in detail the formalities for the auction of special vehicle registration number by ballot for the purchase of personal vehicle registration number, and for the data renewal of taxi driver licences; to amend the over-the-counter licence issuing procedure to stipulate that vehicle owners can obtain the new vehicle registration card in person.
2. To establish a complete record system for the “EX” registrations to enhance management efficiency. At present, all fines related to the EX/ES registrations are based on the minimum unspecified fine stipulated by the Road Regulations. It is appropriate to amend the related regulations to fit the practical circumstances and to consider stipulating at the time of law amendments that the vehicle registration numbers must be put in use within 90 days of purchase.
3. To evaluate the current measure that only specific firms can supply vehicle number plates citizens and consider changing the measure for any firms that abide by certain requirements to be suppliers; to penalize firms supplying unqualified vehicle number plates.
4. If vehicle owners state clearly about giving up the vehicle in use during a hearing, it is unnecessary for them to submit another application for cancellation of vehicle registration.
5. The notification deadline for the taxi licence transfer can be calculated by the approval date of the Registry as well as the date when both parties signed the transfer documents.
6. Regarding industrial machines and old engines used in construction sites/workshops, it is appropriate to improve the efficiency of handling consultation or enquiries. The authorities should consider accepting certificates issued by the authentication agency of the country of origin and cancel the measure that the certification of inspection issued legally by the country of origin can be replaced by the statement issued by local commercial associations. From a long-term perspective, it is necessary to revise and amend the related regulations to cater for the practical circumstances of society. For example, if an applicant is approved to get a “T” plate but fails to obtain it even after the certificate has expired, the applicant need not submit another application for cancellation. It is necessary to review the stipulations on approving first-time and renewal applications and the enforcement in practice.

The authorities should also consider enacting externally regulatory dispatches to enhance the efficacy of law enforcement. Current measures should also be reviewed regarding the special inspection that must be performed on heavy vehicles within 15 days of importation. The authorities might consider amending the current regulations to follow the *Road Code* and the Regulations of Inspection and Regulations on Various Specifications of Motorized Vehicles - requiring to submit the inspection application within 24 hours and eliminating the criteria and requirements of exemption from inspection. In future, through externally regulatory dispatches, clear and detailed specifications must be made regarding the application for temporary importation and the issue of the "T" plate.

7. To formulate working guidelines for all kinds of application procedures and standardize the execution procedures and criteria.

### **Follow up on the research on operations**

In regard to the research on operations undertaken in 2004 with the Driver Licence Division of the Traffic and Transportation Department under the Civic and Municipal Affairs Bureau, the following improvement measures have been implemented:

1. All kinds of information were prepared and distributed uniformly. The security measures of personal data were improved, as was the mechanism of recording consultation and complaint.
2. In regard to driving tests, the mechanism of electronic selection of driving examiner and driving test route on the day is currently in operation. Related working guidelines were stipulated for cases of failing to present an identification document prior to the test. The way of recording late arrival for test was improved as well. In addition, the authorities have formulated the Notes for Applying for Driving Test for public reference and Points to Note on Handling Driving Test as internal working guidelines.
3. Regarding the application for exchanging an overseas driver's licence for a Macao driver's license, only a foreign currency draft is acceptable. If applicants do not complete the formalities within 6 months after they are notified of approval to go through formalities, the related procedure will be cancelled.
4. While the front counter service of the Driver Licence Division is included in the Service

Centre of the Civic and Municipal Affairs Bureau, all working procedures and guidelines have been formulated and enforced.

#### *5.2.2.2 Land, Public Works and Transport Bureau*

With regard to the research on operations of the Inspection Division under the Urbanization Department in the handling procedures of illegal construction projects, agreements on the following improvement measures were made:

1. Upon receipt of complaint, the Bureau is to initiate enquiries such as whether the related building has established an owners' association and names and other information of the property management office. The Bureau will follow up with the complainants who leave their contact details. In addition, the Bureau is to refine the management information systems of complaint handling, illegal constructions and old/dangerous buildings and to study the feasibility of the establishment of bar code recording and document tracing systems in order to improve the management of documents and case files.
2. In regard to arranging staff for conducting examinations of illegal constructions, the Bureau is to refine the arrangement of transportation in order to avoid the use of private vehicles during fieldwork. The Bureau is also to adopt the mechanism of workload distribution with flexible zone-divisions and combinations. By recruiting more staff and adjusting the duty scope of engineers and inspectors, the Bureau will seek to solve the problem of insufficient human resources; through training, staff are further enriched with legal knowledge in practice. Before on-site examination is carried out, the Bureau must ensure that it possesses the data of the property owner and the building floor-plan of the illegally-constructed flat so that the handling and prosecution procedure can be expedited. The notifications of both fine penalty and construction legalization or voluntary demolition will be combined in order to save time and cost. Property owners who do not demolish unauthorized construction by deadline will be punished accordingly. The demolition procedure will take place immediately if it affects the building structure and public safety. The staff responsible for this procedure should not be the one handling the related issue of unauthorized construction.
3. Through comprehensive analysis of the current law, the Bureau is to establish the procedures and rules for every work item to strengthen law enforcement, enhance management

efficiency and increase the accuracy of information provision.

4. Prior to the amendment of current regulations, the Bureau is to cooperate with the related departments to formulate effective measures in order to fight more forcefully against illegal constructions and increase the deterrent power of penalties. This can be achieved in particular by storing illegal-construction data in the Real Estate Registry to allow consultation by individuals planning to purchase the real estate. In the longer term, the Bureau will consider the possibility of adopting other measures such as “charging order”.
5. The Bureau is to enhance communications with property management companies and owners’ associations to prevent and monitor illegal constructions. The Bureau is also to collaborate with the estate management industry to conduct propaganda on the application for “simple renovation project” to minimize illegal constructions.

#### *5.2.2.3 Health Bureau*

##### **Follow up on the research on operations**

The CCAC continued following up on the research on operations that the Health Bureau conducted in 2001 and 2003. The latest progress is reported as follows:

The internal regulations of every sub-system are being amended and “Written Consent to Surgical Operation” and “Declaration of Consent” are being drafted. Some subsidiary units have enforced the electronic attendance system and are currently preparing the attendance recording programme for on-shift medical staff. All health centres have installed the electronic display screen for patient queuing. Through internal notice, it has been stipulated that the issue of medical certificates must meet the principle of in-person verification and the effective time should begin from the moment a person starts consulting the doctor. The split-flow mechanism of the emergency room has also been in trial use since July 2006.

### **5.3 Formulation of Guidelines and Organization of Seminars/Workshops**

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





"Noble Character, Righteous Conduct" Experience Sharing Session

The CCAC launched its promotion campaign of "Guidelines on the Professional Ethics and Conduct of Public Servants" in 2005. Seminars entitled "Noble Character, Righteous Conduct" were organized for a total of 725 personnel from 7 departments in 2006.

In addition, the CCAC also followed up on the formulation progress of the internal codes of conduct in all departments. By the end of December 2006, 49 out of 55 public departments and institutions had formulated their internal codes of conduct; 4 departments were in the process of formulation; 2 departments were formulating their internal codes of conduct while temporarily using the *Guidelines on the Professional Ethics and Conduct of Public Servants* of the CCAC. It is worth mentioning that some departments conducted self-assessment after their internal codes of conduct had been put into practice for a year. In terms of follow-up, the CCAC got acquainted with the progress of code formulation for every department and, more significantly, analyzed the practical content and provided technical advices.

In order to create more opportunities for departments to exchange experiences on formulation and promotion of their internal codes of conduct, the CCAC organized the "Noble Character, Righteous Conduct – Experience Sharing Sessions". Over 240 directors and chiefs of different departments attended the sessions. The sessions allowed exchanges at both academic and operational levels, while drawing on the experiences of neighbouring regions and learning from their valuable opinions. The sessions were thus inspiring and thought-provoking.



Guest speakers at a “Noble Character, Righteous Conduct” Experience Sharing Session

### 5.3.2 Publication of Books and Organization of Seminars on Special Topics

The CCAC strives to enhance the citizen’s understanding of the operations of government departments and their legal knowledge relating to civic livelihood, as well as to increase public servants’ knowledge of the job-related regulations involved. Of the administrative complaints handled in the past few years, the CCAC selected 31 real cases which were more common and closely related to civic livelihood. With these cases, the CCAC briefly illustrated how the incidents happened, the involved departments, the CCAC’s handling procedure and the outcome. Combining the above cases with related regulations and articles, the CCAC edited and published a book called the *Selected Cases of Ombudsman*.

The CCAC continued organizing symposia entitled “Defend Your Right with Ombudsman” together with community associations so that citizens could better protect their personal legal rights and interests. In addition, talks were held on the topic of “public procurement” and “Noble Character, Righteous Conduct” based on the needs of specific departments and institutions to remind public servants to perform their duties in a fair and impartial way.



## 5.4 Staff Training and Academic Research

### 5.4.1 Staff Training

In 2006, the CCAC continued arranging its staff to attend courses hosted by police forces and anti-corruption organs outside Macao. Courses included short-term training of investigative knowledge held by the Chinese People's Public Security University and a command course for chief investigation officers held by the ICAC in Hong Kong. In order to strengthen the staff's understanding of the close relationship between investigation work and judicial power, the CCAC also invited local experienced judges to conduct training on "investigation and judgement".

### 5.4.2 Academic Research

To encourage research and study on the ombudsman system in Macao, the CCAC and the Macao Foundation jointly organized the "Research Awards on Comparative Studies of Ombudsman Systems in Asia" and accepted public applications. The program aims to explore the functions and roles of ombudsman systems in promoting good governance, so as to enhance public awareness and recognition of the ombudsman system in Macao and to further promote the systems in Asian countries. 3 projects were selected by the jury panel to receive the awards. In addition to Macao, the research topics also cover countries and regions such as Korea, India, Japan, Mainland China, Hong Kong and Taiwan. It is expected that the related research projects will be completed in 2008.





# **CHAPTER VI**

## **COMMUNITY RELATIONS**

## Chapter VI – Community Relations

In 2006, the CCAC continued to launch educational and promotional programmes through various channels to popularize social integrity and solicit public support for the anti-corruption forces. In addition, the CCAC also refined its propaganda strategies, actively promoted the ombudsman, strengthened youth integrity education and further promoted commercial ethics. The foregoing was based on the pace of social development and consolidation of past activities. In addition, the establishment of the branch office made it more convenient for residents to lodge complaints or enquiries. The branch office also encouraged citizens to engage in anti-corruption activities. Furthermore, the CCAC extended collaboration and exchange with other regions, resulting in greater effectiveness in the fight against corruption.

### 6.1 Integrity Education

In 2006, the CCAC continued to launch integrity education programmes targeting public servants, students, community associations and institutions. The professional ethics seminars for public servants entitled “Noble Character, Righteous Conduct” were held on fewer occasions since most departments had formulated internal codes of conduct. In tandem with the rapid development of the Macao economy, the CCAC enhanced integrity education for students in addition to promoting a culture of honesty among public servants, public services and private institutions. Throughout the year, the CCAC hosted 366 sessions of different seminars with 23,720 participants.



Table 18  
Seminars held in 2000-2006

		2000	2001	2002	2003	2004	2005	2006
Public servants	Number of sessions	23	94	132	132	51	173	67
	Number of participants	855	5,209	7,435	11,385	1,752	20,228	3,340
Students/trainees	Number of sessions	10	21	40	50	301	175	263
	Number of participants	886	5,386	3,271	6,105	27,483	12,430	18,902
Teachers	Number of sessions	---	---	---	24	---	---	---
	Number of participants	---	---	---	810	---	---	---
Members of community associations	Number of sessions	14	19	10	6	22	17	25
	Number of participants	1,678	1,736	493	190	890	876	1,010
Members of credit institutions	Number of sessions	6	4	2	6	8	3	2
	Number of participants	220	132	55	316	538	135	75
Members of public services and private institutions	Number of sessions	---	2	1	---	3	3	9
	Number of participants	---	70	25	---	105	154	393
<b>Total</b>	Number of sessions	53	140	185	218	385	371	366
	Number of participants	3,639	12,533	11,279	18,806	30,768	33,823	23,720

### 6.1.1 Integrity Education Targeting Public Servants

In 2006, the CCAC continued to host integrity seminars for public servants as well as different kinds of seminars with special topics, including “Public Procurement”, “Ombudsman Functions”, “Declaration of Incomes and Properties”, “Occupational Crimes” and so on. Throughout the year, the CCAC held 67 sessions of different seminars for public servants at different levels in many government departments. There were a total of 3,340 participants.

Table 19  
Classified seminars for public servants in 2006

Subject	Department	Participants	Number of sessions	Number of participants
Sysposium of "Noble Character, Righteous Conduct"	Macao Customs Service	Trainees	2	57
	Public departments	Staff	4	668
Basic Training Course for Public Servants	Public departments	Staff	11	330
Public Procurement	Macao Productivity and Technology Transfer Centre	Staff of Resource Supply & Management Division of Health Bureau	2	40
Declaration of Incomes and Properties	Macao Customs Service	Trainees	1	60
	Academy of Public Security Forces	Security trainees of the 5 <sup>th</sup> course	1	117
Integrity and Conduct	Statistics and Census Bureau	Staff of 2006 Population By-census	21	1,046
	Judiciary Police	Investigators on internship of the 11 <sup>th</sup> course	1	64
	Civic and Municipal Affairs Bureau	New recruits	3	110
	Judiciary Police, Fire Services Bureau and Academy of Public Security Forces	Trainees	1	143
	Fire Services Bureau	Promoted staff and trainees	4	130
	Macao Customs Service	Trainees and customs vice-supervisor	3	71
	Labour Affairs Bureau	Inspection trainees	2	60
	Legal and Judicial Training Centre	Staff	1	77
	Public Security Police Force	Promoted senior policemen	1	56
Ombudsman Functions	Fire Services Bureau	Trainees	1	18
	Academy of Public Security Forces	Promoted policemen and firemen	2	77
	Macao Customs Service	Trainees and promoted customs staff	4	109
Occupational Crimes	Labour Affairs Bureau	Inspection trainees	1	30
	Legal and Judicial Training Centre	Judicial clerk trainees	1	77
Total			67	3,340



Integrity seminars held for public servants

### *6.1.2 Education on Honesty Targeting Students*

#### 1. Education on Honesty for Primary Students

(1) “New Generation of Integrity – an Education Programme on Honesty for Primary Students”

In 2006, the CCAC continued with the “New Generation of Integrity – an Education Programme on Honesty for Primary Students” for primary 4 to primary 6 students. The programme took place in an activity room called “Paradise of Integrity” located in the branch office. The programme conveyed the message of honesty and integrity to the primary students via puppet shows, computer animation and short films. In 2006, a total of 25 schools and 7,006 students participated in the programme.



Primary students participated in the “New Generation of Integrity” Programme

## (2) Teaching Materials for Moral Education

In 2005, the CCAC published a primary school teaching kit called *Honesty and Integrity* and was distributed to schools for free. Before the new school term started in 2006, the CCAC published new story boards entitled “Picture Storytelling” to supplement and enrich the teaching kit content. By the end of 2006, 55 schools were using the *Honesty and Integrity* textbooks as their supplementary teaching material for moral education, which is around 90% of the primary schools in Macao. The CCAC also provided 42,066 textbooks for free. Many schools set great score to the textbook and teaching kit.

## (3) Other Integrity Promotion Activities

In 2006, the branch office of the CCAC held 19 sessions of “June 1<sup>st</sup> Children’s Day Special Programme” to teach primary students the importance of honesty. Some 761 primary students attended the sessions. The CCAC also took part in several integrity promotion activities held for primary students, including: co-organizing the celebration activities of “June 1<sup>st</sup> Children’s Day” held by the Macao SAR government; and participating in the celebration activities of “June 1<sup>st</sup> International Children’s Day” organized by General Workers’ Union of Macao.

In addition, the CCAC corresponded with children through the “William Postage” to



further instil honesty in Macao's youth. Through correspondence, the CCAC guided the children to concern and care for the people and the things around them, to distinguish between right and wrong and establish correct values. By December 2006, a total of 219 students from 25 schools had written 498 letters to "William", sharing their life and study situations with him through their letters.



The CCAC participated in the "June 1<sup>st</sup> Children's Day" celebration activities co-organized by various departments of the Macao SAR government



Students share their thoughts with "William"

## 2. Education on Honesty for High School Students

### (1) “Integrity Week” and “Education Programme on Honesty for Teenagers”

In order to deepen education on honesty for teenagers, the CCAC launched the “Integrity Week” scheme for high schools in 2004. In this scheme, the CCAC promoted correct values plus the spirit of integrity and law-abiding behaviour to high school students in diverse, interactive ways to excellent effect. In 2006, some 1,588 students from the Macao Portuguese School and Estrela do Mar School participated in the CCAC “Integrity Week”.

In addition, the CCAC also launched the “Education Programme on Honesty for Teenagers” in high schools. Staff members of the CCAC have visited a number of secondary schools in Macao to hold seminars and share opinions on topics such as “the value on money” and “fairness”. In 2006, the CCAC held a total of 20 seminars attended by 7,880 students from 12 high schools.



Chief of Cabinet, Ho Ioc San spoke at the launching ceremony of “Integrity Week” in Estrela do Mar School

### (2) Web Page on Honesty for Teenagers

In order to broaden the channels of honesty education for teenagers, the CCAC has set up a web page called “Teen City”. The web page includes interviews, games, animations



and case records through which the CCAC hopes to convey positive values like “honesty and law-abidingness” to teenagers in interactive and interesting ways. The web page is expected to launch in mid 2007.

### (3) Seminars and Youth Camps

In 2006, the CCAC personnel visited many youth organizations in Macao to strengthen bonds with these groups and collect teenage opinions regarding anti-corruption work and honesty education. In addition, the CCAC also organized or participated in many youth activities, including: organizing a Youth Camp on Honesty attended by the delegates of various youth organizations; co-organizing a civic education fun day entitled “Promote Integrity, Abide by the Law” held by the Youth Commission and Youth Association of the Women’s General Association of Macao; attending the “Carnival against Crime and Drug Abuse” organized by Junior Police Call; co-organizing the “Integrity & Honesty – the 8<sup>th</sup> Macao Chinese Calligraphy Student Competition of Macao Students” with the Chong Wa Student Association of Macao.



The CCAC leaders and association delegations attended Youth Camp



"Promote Integrity, Abide by the Law"

### 3. Integrity Education for College Students

In 2006, the CCAC held a total of 24 integrity seminars for college students and trainees of various pre-job training courses. The number of participants reached 1,667.



Trainees of Macao Tourism and Casino Career Centre attended integrity seminar

Table 20  
Seminars held for university, high school students and trainees of training courses in 2006

Topic	Educational institutes	Participants	Number of sessions	Number of participants	Total number of participants
Clean Election	University of Macau	Students of Faculty of Social Sciences and Humanities	1	120	273
Integrity Awareness	University of Macau	Students of Public Administration programme	1	28	
	University of Macau	Students of undergraduate programme of gaming management	1	60	
	Macau Polytechnic Institute	Students of Public Administration programme	1	30	
	Kiang Wu Nursing College of Macau	Students	1	35	
	Macao Tourism and Casino Career Centre	Trainees of employment training	18	1,350	1,394
	Macau Millennium College	Trainees of employment training	1	44	
The Integrity Week	Estrela do Mar School	High school students	17	1,588	9,468
Education Programme on Honesty for Teenagers	11 Chinese/English high schools and Macao Portuguese School	High school students	20	7,880	
<b>Total</b>			61	11,135	

In addition, the University of Macau organized an activity entitled “New Era of Integrity: seminar series”. Iu Vai Pan, Rector of the University of Macau, Liu Bolong, Director of Social Science Research Centre on Contemporary China, and Cheong U, Commissioner Against Corruption attended and hosted the opening ceremony of the activity. The CCAC personnel discussed “Elections and Anti-corruption” with participating students and teachers.





The Commissioner Cheong U attended “New Era of Integrity: seminar series” at the University of Macau

### 6.1.3 Integrity Promotion Targeting Institutions and Community Associations

#### 1. Integrity Promotion Campaign Targeting Institutions

In 2006, the CCAC strengthened its propaganda in different spheres such as monopoly companies, private institutions and credit institutions. Interactive communications were performed regarding their specific needs and the culture of honesty fostered among the businesses. The CCAC held 11 seminars for institution staff throughout the year, with 468 participants.

Table 21  
Seminars held for institutions in 2006

Institution	Subject	Number of sessions	Number of participants
CTM	Directors and staff	4	270
The Venetian Macau Limited	Supervisors and staff	2	65
CLP Engineering Limited	Staff	2	33
Tai Fung Bank	New recruits	1	40
Industrial and Commercial Bank of China, Macao Branch	New recruits	1	35
Otis Elevator Company	Managers and business operators	1	25
<b>Total</b>		<b>11</b>	<b>468</b>



The CCAC held "Integrity Awareness" seminar for CTM directors and staffs



The CCAC held "Integrity Awareness" seminar for supervisors and staff of the Venetian Macau Limited

## 2. Integrity Promotion Campaign Targeting Community Associations

In 2006, the CCAC held a total of 25 seminars and visits for community association members, totalling 1,010 participants. Through these activities, the CCAC hoped to educate more citizens about the duties of the CCAC, enlisting public support and participation in anti-corruption activities.

Table 22  
Seminars held for community associations in 2006

Topic	Community associations	Participants	Number of sessions	Number of participants
Ombudsman Functions	North District Service Centre of the General Workers Union of Macao	Members	1	34
	Taipa Branch Office Service Centre of the General Workers’ Union of Macao	Members	1	30
	Macao Community Youth Volunteers Development Association	Members	1	41
	Youth Commission of Association of Women of Macao	Members	1	20
	Association for Residents in Iao Hon and Hipódromo District	Members	1	40
	Macao Volunteer Workers’ Association	Young volunteers	1	25
	Macao New Chinese Youth Association	Health ambassadors	3	120
Integrity Awareness	Elderly Health Centre of 4 Neighbourhood Association of Southern District	Members	1	50
	Caritas Macau Ching Fai Association	Students	1	30
	Youth Committee of the General Workers Union of Macao	Young members	1	40
	Obras das Mães Elderly Health Centre	Members	1	45
	Special Education Centre for Macau Association for the Deaf	Children and parents	1	15
	Family Service Centre of General Union of Neighbourhood Associations of Macao	Young members	1	20
	Youth Service Department under North District Services Centre of the General Workers’ Union of Macao	Young volunteers	1	12
	North District Family Services Centre of Women’s Association of Macao	Members	1	25
	Dawn Centre of Macao Family Association for Mentally Handicapped	Trainees	1	20
	Youth Activity Centre of Agricultural Association of Macao	Members	1	50
	Taipa Community Centre of General Union of Neighbourhood Associations of Macao	Members	1	25
	Juvenile Volunteer Association of Macau	Members	1	33
	Young Men’s Christian Association of Macao	Young reporters	1	15
	Chong Wa Student Association of Macao/ Macao New Chinese Youth Association	Young community ambassadors 2006	1	20
	Macao New Chinese Youth Association	Youth assembly ambassadors	1	50
		High school students	1	250
	Total			25



To summarize, the CCAC held a total of 366 sessions of various seminars, talks and symposiums. The total number of participants was 23,720.

Table 23  
Seminars, symposiums and workshops in 2006

Participants	Activity nature/topic	Number of sessions	Number of participants	Sub-total number of participants
Public servants	Symposium of "Noble Character, Righteous Conduct"	6	725	3,340
	Basic Training Course for Public Servants	11	330	
	Seminars on "Public Procurement"	2	40	
	Seminars on "Declaration of Incomes and Properties"	2	177	
	Seminars on "Integrity and Conduct"	37	1,757	
	Seminars on "Ombudsman Functions"	7	204	
	Seminars on "Occupational Crime"	2	107	
Primary students	"New Generation of Integrity – an Education Programme on Honesty for Primary Students"	183	7,006	7,767
	"June 1 <sup>st</sup> Children's Day Special Programme"	19	761	
High school students	The Integrity Week	17	1,588	9,468
	"Education Programme on Honesty for Teenagers"	20	7,880	
College students	Seminars on "Integrity Awareness"	5	273	1,667
Trainees	Seminars on "Integrity Awareness"	19	1,394	
Community associations	Seminars on "Ombudsman Functions"	9	310	1,478
	Seminars on "Integrity Awareness"	16	700	
Institutions	Seminars on "Integrity Awareness"	11	468	
<b>Total</b>		<b>366</b>	<b>23,720</b>	

## 6.2 Promotion of Ombudsman Functions

In order to enhance citizens' comprehension of the ombudsman functions, the CCAC not only held seminars on the topic for different social classes but published the *Selected Cases of Ombudsman* and created new promotional posters. In terms of community propaganda,

the CCAC hosted the variety show “Defend Your Rights with Ombudsman” at Leal Senado Square. Through song and dance, drama and games, the show enhanced citizens’ understanding of the ombudsman functions.



Opening ceremony of “Defend Your Rights with Ombudsman” variety show



Promotional poster of ombudsman

### 6.3 Regular Promotion Work

In 2006, the CCAC widely promoted information related to integrity through systematic dissemination:

- Published *quarterly CCAC bulletin* in Chinese/Portuguese and *half-yearly bulletin* in English.



Quarterly CCAC bulletin in Chinese and Portuguese plus half-yearly bulletin in English

- Published articles in the column of “Clean Administration Forum” in Chinese press. Some articles were published in *Periodicals of the Association of Adult Education of Macao* and “*Kai Pou*”, the publication of the Macao Prison.

- Through press releases, announced cases detected by the CCAC, court verdicts of detected cases and briefings on latest CCAC activities.

- Appeared on TV information programme “Enquiry and Reply”.

- Created TV commercials, radio commercials, press advertisements and bus advertisements.



- Participated in other public welfare and recreation activities including the 37<sup>th</sup> Caritas Bazaar of Macao, Charity Walk for Millions, group blood donations and sports contests for public servants.



Citizens participated in the CCAC booth games at 37<sup>th</sup> Caritas Bazaar of Macao



Filming of TV commercial "City of Integrity"

## 6.4 The Branch Office

Community relations are important resources for the CCAC's promotion and education of its integrity programme. The CCAC further expanded its community network through the branch office in 2006. The branch office visited 25 community associations in different districts, listening to their opinions and suggestions for anti-corruption and clean elections. The branch office also encouraged different social classes to actively participate in anti-corruption work.



The CCAC delegation attended discussion with community association leaders

In addition, the branch office often held seminars on "Integrity Awareness" and "Ombudsman Functions". It also participated in many activities held by community associations, thus fostering community awareness on integrity. In order to encourage more citizens to acknowledge and use the services of the branch office, the CCAC created promotional posters, bus, newspaper and radio advertisements.





Members of associations in the north district attended “Ombudsman Functions” seminar



Young association members visited the branch office





Principal and supervisors of Hou Kong Middle School visited the branch office and met with the Commissioner Cheong U



Bus advertisement



Promotional poster of the branch office

In 2006, the branch office received a total of 517 complaints/reports, requests for help and consultation and simple enquiries. There was a dramatic increase compared to the 405 cases in 2005. Of these cases, 45 complaints/reports and 472 consultations were recorded. Most complaints/reports and requests for help and consultation were instigated by citizens in person.

Table 24  
Number of citizens received by the branch office in 2006

Complaints/reports		Written Complaints	Request for help/consultation	Simple enquiry	
In person	Telephone			In person	Telephone
20	8	17	262	136	74
Sub-total: 45			Sub-total: 472		
Total: 517					

## 6.5 Liaison and Exchange

### 6.5.1 Liaison with Media

The CCAC maintained close liaison and a healthy collaborative relationship with the media that helped enhance communication and cooperation with society at large. In 2006, the CCAC hosted the “Tea Meeting on Clean Administration”, during which the CCAC met with the leaders of different media institutions for exchange and collection of social opinions. The CCAC also obtained information for reference to formulate anti-corruption strategies.



The CCAC met with media institution leaders in the annual “Tea Meeting on Clean Administration”

### 6.5.2 Exchange with Counterparts Overseas

In terms of exchange, the CCAC continued to strengthen its bonds with the Ombudsman departments of Mainland China, Hong Kong and other regions. The CCAC attended exchange activities including the Board of Directors’ Meeting of the International Ombudsman Institute, Board of Directors’ Meeting of Asian Ombudsman Association, the 1<sup>st</sup> Conference of States Parties to the United Nations Convention against Corruption (UNCAC) in Jordan, the 12<sup>th</sup> International Anti-Corruption Conference in Guatemala organized by the Transparency International, the 1<sup>st</sup> Annual Conference and General Meeting of the International Association



of Anti-Corruption Authorities (IAACA) in Beijing, International Anti-Corruption Conference in Malaysia and the 3<sup>rd</sup> China-ASEAN Prosecutors General Conference in Indonesia. The CCAC also attended the 8<sup>th</sup> and 9<sup>th</sup> Steering Group Meeting of the ADB/OECD Anti-Corruption Initiative for Asia-Pacific, which took place in Manila and Bangkok, as well as the 3<sup>rd</sup> ICAC Symposium in Hong Kong.



The CCAC delegation attended the 1<sup>st</sup> Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities (IAACA) in Beijing

It merits mention that in 2006, the CCAC, on behalf of the Macao SAR Government, formally signed up as a member of the Anti-Corruption Action Plan for Asia and the Pacific. The Anti-Corruption Action Plan for Asia and the Pacific is an anti-corruption initiative jointly launched by the Asian Development Bank and Asia Pacific Economic Cooperation in the Asia Pacific region. The Action Plan included 3 pillars: developing effective and transparent system for public service; strengthening anti-bribery actions and promoting integrity in business operation; supporting active public involvement. The Anti-Corruption Action Plan for Asia and the Pacific was launched in 2001 and currently has 27 members. All members pledged to observe the principles and standards set by the Action Plan, formulating and enforcing the anti-corruption scheme according to their specific practical situations. Activities such as workshops and forums will be held to enhance collaboration and exchange with each other.



CCAC delegation invited by Ministry of Supervision of the People's Republic of China to visit Shanghai. Luo Shiqian, Deputy Secretary of the CPC Shanghai Municipal Committee and Secretary of Discipline Inspection Commission of Shanghai, met with Endy Tou, the Deputy Commissioner

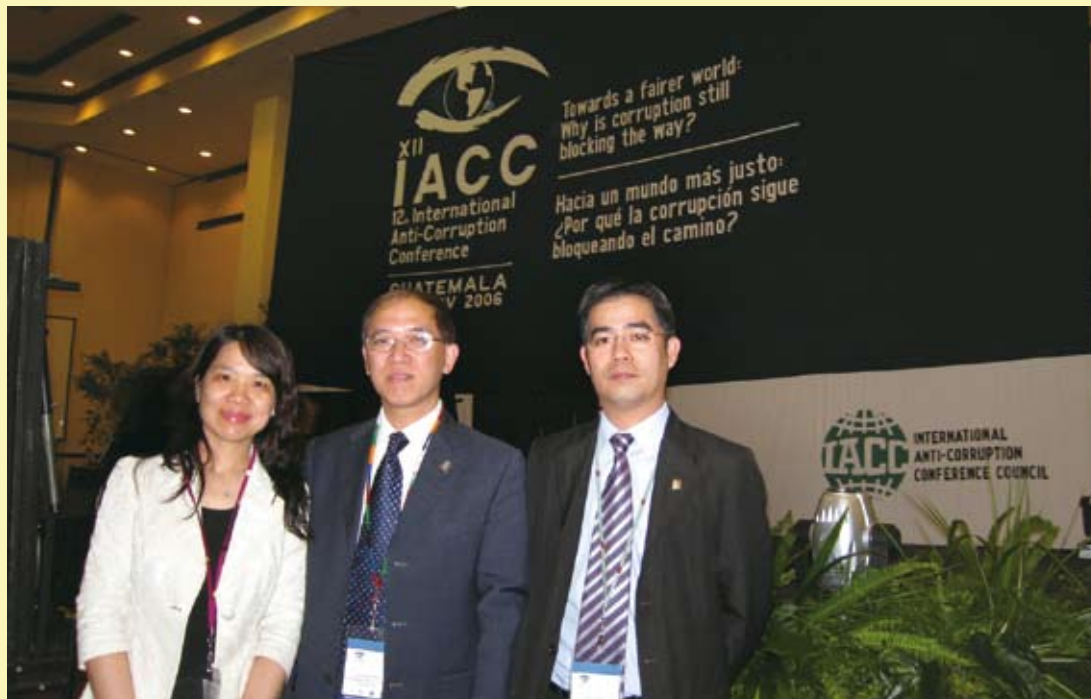


The Commissioner, Cheong U attended the 8<sup>th</sup> Steering Group Meeting of ADB/OECD Anti-Corruption Initiative for Asia-Pacific in Manila, together with leaders of all delegations





Board of Directors' Meeting of the International Ombudsman Institute in Barcelona, Spain.  
The Commissioner Cheong U attended as a member of the Board of Directors



CCAC delegation attended the 12<sup>th</sup> International Anti-Corruption Conference in Guatemala



In order to strengthen liaisons with local community associations, CCAC leaders met with the persons in charge of the many institutions and associations, including: the University of Macau, Macao Polytechnic Institute, Oversea Chinese Association Macau, Macao Chinese Civil Servants' Association, the Women's General Association of Macau, Macau Juvenile Cultural Association, Association of Clerical Staff, Macau Diocesan Youth Pastoral Centre and Macau Social Workers' Association. The CCAC also seized the opportunity to collect diverse opinions on anti-corruption work. In addition, the CCAC also organized two sessions of its "Symposium on Integrity" and invited the representatives of nearly 20 associations to attend the sessions. The CCAC collected public opinion through these sessions so that it could better plan future activities.

The CCAC also received visiting delegations from different countries and region, including the Australian Federal Police, the Procurator Delegation of Indonesia and Denmark, United States Department of Justice, US Las Vegas Gaming Commission, ICAC of Hong Kong, the Discipline Inspection Commission of the Ministry of Public Security of the People's Republic of China, Indonesian Procuratorate Delegation, staff of the Department of Law of Hong Kong and Macao Affairs Office of the State Council, Guangdong Provincial People's Procuratorate, Jilin Provincial People's Procuratorate, staff of the Inspection Department of Guangdong Provincial State Taxation Bureau, Beijing Bureau of Quality and Technical Supervision, the 46<sup>th</sup> staff training course of the Shanghai Cadres of Shanghai Administration Institute, Beijing Supervision Bureau and so on.



Delegation of the Australian Federal Police visited the CCAC



Cheong U, the Commissioner had business exchange with Zhang Xuejun, Chief Procurator of Guangdong Provincial People's Procuratorate, and presented souvenir

Representatives of the Central Government Units stationed in Macao, number of Macao associations and academic institutes also paid visits to the CCAC or the branch office, including the principal and supervisors of Hou Kong Middle School, the representatives of the People's Liberation Army Macao Garrison, Macau Insurers' Association, the Macao Foundation, Association of Clerical Staff and so on.



Director of Beijing Supervision Bureau Zhang Houkun led delegation on Macao visit



# **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 being 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 2006 was approved by the Executive Order no. 68/2006 of the Chief Executive and was published in Series 1, Issue 12 of the *Official Gazette of the Macao SAR* on 20<sup>th</sup> March 2006. The budgeted income approved was MOP90,645,000.00 (ninety million, six hundred and forty-five thousand patacas).

After closing accounts of 2005 and settling the related surplus, the CCAC in accordance with the law prepared the supplementary budget. This was approved by the Executive Order no. 122/2006 of the Chief Executive and was published in Series 1, Issue 19 of the *Official Gazette of the Macao SAR* on 8<sup>th</sup> May 2006.

Considering the surplus was increased by MOP2,608,951.98 (two million, six hundred and eight thousand, nine hundred and fifty-one patacas, and ninety-eight avos) based on the financial management in the previous year, therefore, the budget for the CCAC to carry out various projects and activities in 2006 totalled MOP93,253,951.98 (ninety-three million, two hundred and fifty-three thousand, nine hundred and fifty-one patacas, and ninety-eight avos).

#### 7.1.2 Budgeted income

The amended budgeted income for 2006 was MOP93,253,951.98 (ninety-three million, two hundred and fifty-three thousand, nine hundred and fifty-one patacas, and ninety-eight avos). However, the actual income was MOP93,571,299.51 (ninety-three million, five hundred

and seventy-one thousand, two hundred and ninety-nine patacas, and fifty-one avos), with a difference of MOP317,347.53 (three hundred and seventeen thousand, three hundred and forty-seven patacas, and fifty-three avos) higher than the budgeted income, thus resulting in an execution rate of 100.34%.

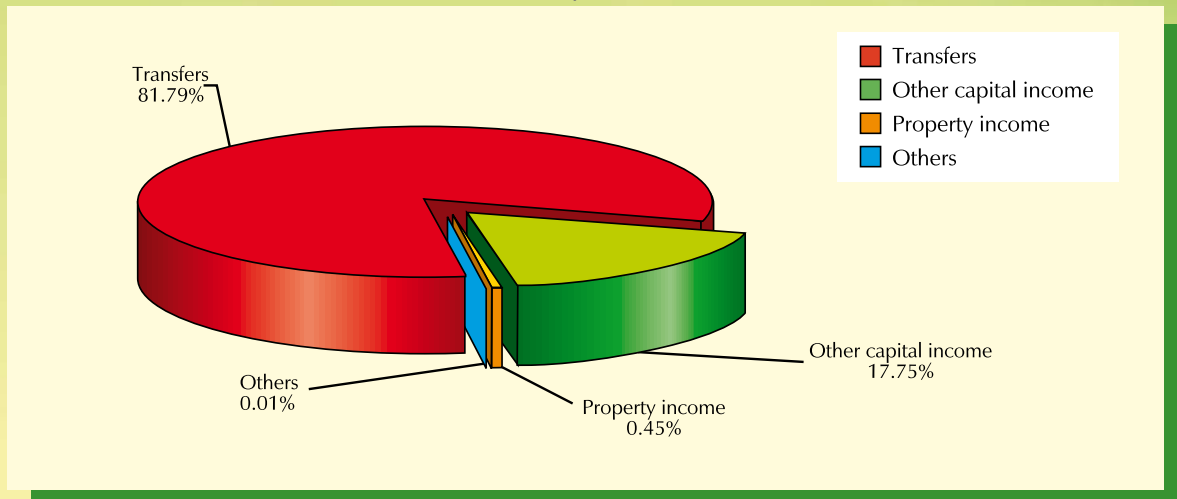
Out of the total actual income of MOP93,571,299.51 (ninety-three million, five hundred and seventy-one thousand, two hundred and ninety-nine patacas, and fifty-one avos), the major part came from the item of “Transfer of the General Budget of the Macao SAR”. This was MOP76,536,228.00 (seventy-six million, five hundred and thirty-six thousand, two hundred and twenty-eight patacas), accounting for 81.79% of the actual total.

Another major source of income was “Other Capital Income”, which was MOP16,608,951.98 (sixteen million, six hundred and eight thousand, nine hundred and fifty-one patacas, and ninety-eight avos), accounting for 17.75% of the actual total. It was the management surplus of 2005.

Table 25  
Financial income in 2006

Codes	Designation	Budgeted income	Supplementary budget	Total budgeted income	Actual income		Difference	Execution rate
					Amount	Percentage		
	Ordinary income	76,644,000.00	0.00	76,644,000.00	76,961,844.00	82.25%	317,844.00	100.41%
04-00-00	Property income	100,000.00	0.00	100,000.00	423,110.60	0.45%	323,110.60	423.11%
05-00-00	Transfers	76,539,000.00	0.00	76,539,000.00	76,536,228.00	81.79%	-2,772.00	100.00%
06-00-00	Durable goods sale	1,000.00	0.00	1,000.00	67.90	0.00%	-932.10	6.79%
07-00-00	Sale of durable assets	3,000.00	0.00	3,000.00	1,586.50	0.00%	-1,413.50	52.88%
08-00-00	Other ordinary income	1,000.00	0.00	1,000.00	851.00	0.00%	-149.00	85.10%
	Capital income	14,001,000.00	2,608,951.98	16,609,951.98	16,609,455.51	17.75%	-496.47	100.00%
13-00-00	Other capital income	14,000,000.00	2,608,951.98	16,608,951.98	16,608,951.98	17.75%	0.00	100.00%
14-00-00	Repossession of the payment unsettled in previous year	1,000.00	0.00	1,000.00	503.53	0.00%	-496.47	50.35%
<b>Total</b>		<b>90,645,000.00</b>	<b>2,608,951.98</b>	<b>93,253,951.98</b>	<b>93,571,299.51</b>	<b>100.00%</b>	<b>317,347.53</b>	<b>100.34%</b>

Table 26  
Income components in 2006



### 7.1.3 Budget expenditure

Out of the budgeted total of MOP93,253,951.98 (ninety-three million, two hundred and fifty-three thousand, nine hundred and fifty-one patacas, and ninety-eight avos), the actual amount of expenditure was MOP72,374,528.84 (seventy-two million, three hundred and seventy-four thousand, five hundred and twenty-eight patacas, and eighty-four avos), resulting in the execution rate of 77.61%.

This was because, firstly, some of the projects expected to have been completed in 2006 remained unfinished. For example, the project of the acquisition and installation of facilities for surveillance was uncompleted in 2006. Secondly, some of the expected vacancies in the CCAC were yet to be filled.

Of the actual expenditure of MOP72,374,528.84 (seventy-two million, three hundred and seventy-four thousand, five hundred and twenty-eight patacas, and eighty-four avos), the largest portion amounting to MOP44,906,843.06 (forty-four million, nine hundred and six thousand, eight hundred and forty-three patacas, and six avos) went to personnel costs. This accounted for 62.05% of the total expenditure. The second largest expenditure was on "Acquisition of Asset and Service", totalling MOP16,292,059.40 (sixteen million, two hundred and ninety-two thousand, fifty-nine patacas, and forty avos) and accounting for 22.51% of the total. The amount for "Ordinary Transfers" was MOP5,314,434.00 (five million, three

hundred and fourteen thousand, four hundred and thirty-four patacas), accounting for 7.34%. The amount for “Routine Expenditure” was MOP3,673,051.63 (three million, six hundred and seventy-three thousand, fifty-one patacas, and sixty-three avos), accounting for 5.08%. In addition, the amount for investment was MOP2,188,140.75 (two million, one hundred and eighty-eight thousand, one hundred and forty patacas, and seventy-five avos), accounting for 3.02% of the actual total expenditure.

As the actual income was MOP93,571,299.51 (ninety-three million, five hundred and seventy-one thousand, two hundred and ninety-nine patacas, and fifty-one avos) and the total expenditure was MOP72,374,528.84 (seventy-two million, three hundred and seventy-four thousand, five hundred and twenty-eight patacas, and eighty-four avos), thus the management surplus in 2006 was MOP21,196,770.67 (twenty-one million, one hundred and ninety-six thousand, seven hundred and seventy patacas, and sixty-seven avos).

Since the budgeted management surplus of 2006 was MOP15,000,000.00 (fifteen million patacas) and the actual management surplus was MOP21,196,770.67 (twenty-one million, one hundred and ninety-six thousand, seven hundred and seventy patacas, and sixty-seven avos), the related management surplus was MOP6,196,770.67 (six million, one hundred and ninety-six thousand, seven hundred and seventy patacas, and sixty-seven avos) above the budgeted management surplus.

Table 27  
Financial expenditure in 2006

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)×100%
	Ordinary Expenditures	84,515,000.00	2,608,951.98	-50,000.00	87,073,951.98	70,186,388.09	16,887,563.89	80.61%
01-00-00-00	Personnel	50,203,000.00	0.00	260,000.00	50,463,000.00	44,906,843.06	5,556,156.94	88.99%
01-01-00-00	Fixed and long-term remuneration	47,720,000.00	0.00	-460,000.00	47,260,000.00	42,618,823.20	4,641,176.80	90.18%
01-02-00-00	Extra remuneration	1,293,000.00	0.00	0.00	1,293,000.00	996,945.00	296,055.00	77.10%
01-03-00-00	Bonus in kind	20,000.00	0.00	0.00	20,000.00	15,431.98	4,568.02	77.16%
01-05-00-00	Providence welfare	500,000.00	0.00	0.00	500,000.00	310,150.00	189,850.00	62.03%
01-06-00-00	Compensation of expense share	670,000.00	0.00	720,000.00	1,390,000.00	965,492.88	424,507.12	69.46%
02-00-00-00	Assets and services	19,400,000.00	0.00	1,400,000.00	20,800,000.00	16,292,059.40	4,507,940.60	78.33%
02-01-00-00	Durable assets	1,360,000.00	0.00	0.00	1,360,000.00	387,960.34	972,039.66	28.53%
02-02-00-00	Non-durable assets	1,160,000.00	0.00	0.00	1,160,000.00	789,660.38	370,339.62	68.07%
02-03-00-00	Aquisition of services	16,880,000.00	0.00	1,400,000.00	18,280,000.00	15,114,438.68	3,165,561.32	82.68%
04-00-00-00	Ordinary transfers	5,084,000.00	0.00	760,000.00	5,844,000.00	5,314,434.00	529,566.00	90.94%
05-00-00-00	Other ordinary expenditure	9,828,000.00	2,608,951.98	-2,470,000.00	9,966,951.98	3,673,051.63	6,293,900.35	36.85%
	Capital expenditure	6,130,000.00	0.00	50,000.00	6,180,000.00	2,188,140.75	3,991,859.25	35.41%
07-00-00-00	Investments	6,130,000.00	0.00	50,000.00	6,180,000.00	2,188,140.75	3,991,859.25	35.41%
07-03-00-00	building	130,000.00	0.00	0.00	130,000.00	129,659.25	340.75	99.74%
07-09-00-00	Transportation materials	900,000.00	0.00	0.00	900,000.00	783,788.00	116,212.00	87.09%
07-10-00-00	Machinery and equipment	5,100,000.00	0.00	50,000.00	5,150,000.00	1,274,693.50	3,875,306.50	24.75%
TOTAL		90,645,000.00	2,608,951.98	0.00	93,253,951.98	72,374,528.84	20,879,423.14	77.61%

Table 28  
Expenditure components in 2006

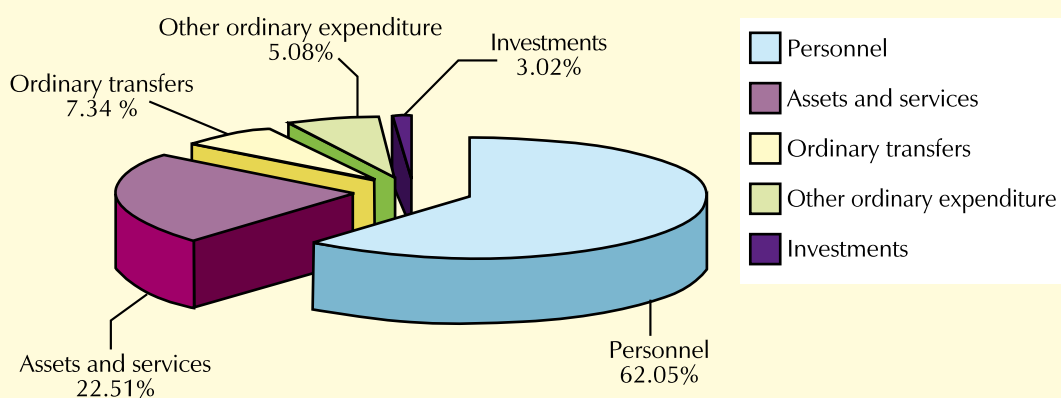
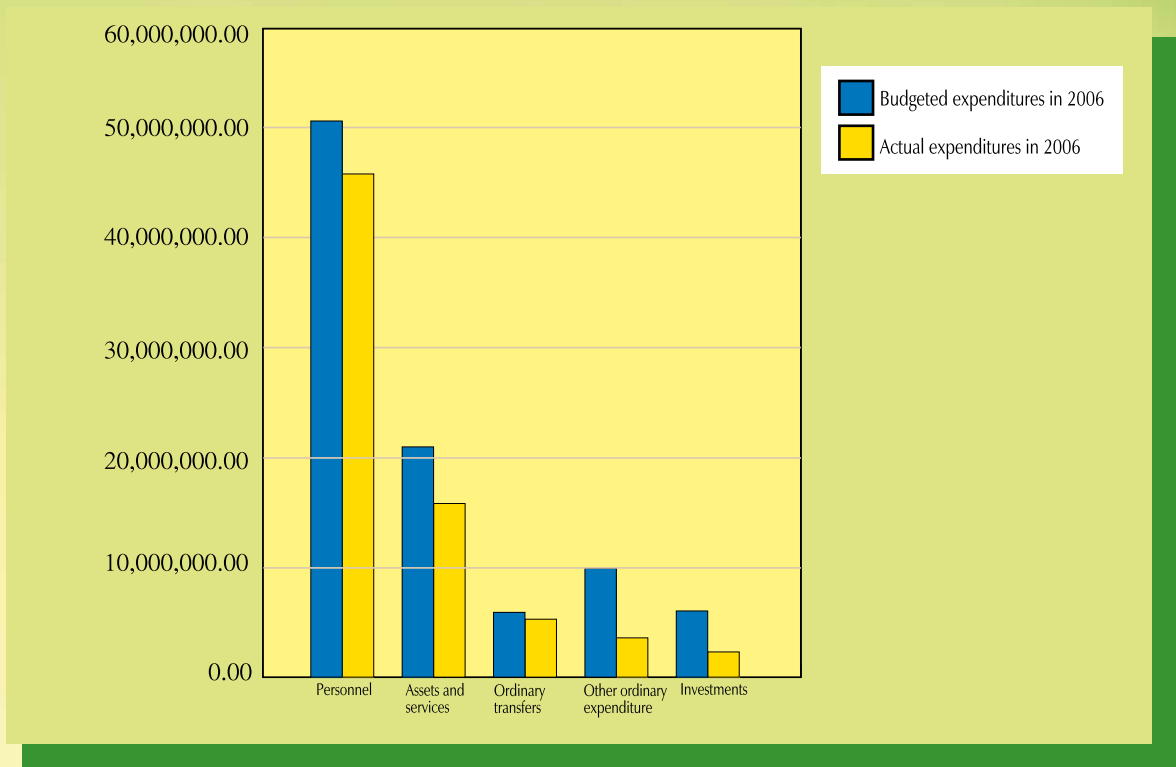




Table 29  
Comparison between the budgeted and actual expenditures in 2006



## 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 Administrative Regulation No. 31/2000 through the Administrative Order No. 28/2003 given on 21<sup>st</sup> July, 2003, thus the total number of staff members in the CCAC was 109. Until 31<sup>st</sup> December 2006, together with other forms of recruitment, the personnel of the CCAC had increased to 125.

Table 30  
Comparison of the numbers of staff from 1999 to 2006

Posts	31-12-1999	31-12-2000	31-12-2001	31-12-2002	31-12-2003	31-12-2004	31-12-2005	31-12-2006
Commissioner	1	1	1	1	1	1	1	1
Deputy Commissioner	2	2	2	2	2	2	2	2
Chief of Cabinet of the Commissioner	1	1	1	1	1	1	1	1
Adviser or Expert	2	5	6	6	6	5	4	4
Department Head	---	---	1	1	1	1	1	1
Chief Investigation Officer	---	---	2	2	3	3	2	2
Division Head	1	1	1	---	1	1	1	1
Senior Officer	6	5	4	6	4	3	3	4
Senior Information Technology Officer	---	---	---	1	2	1	2	2
Interpreter	3	1	1	---	---	---	---	---
Personal Secretary	2	1	2	2	1	1	2	2
Office Assistant	---	---	---	---	1	1	1	1
Chinese Expert	---	---	1	1	1	1	1	1
Officer	1	1	1	1	1	1	1	1
Information Technology Officer	---	---	---	---	1	1	2	2
Investigator	---	19	32	35	40	50	49	61
Assistant Officer	5	7	6	8	18	16	15	13
Public Relations Officer	2	2	2	2	1	---	---	---
Auxiliary Officer	---	---	6	7	6	6	6	7
Information Technology Assistant	---	1	1	1	1	1	---	---
Administrative Official	3	3	3	3	3	5	6	6
Worker and Auxiliary Staff	12	12	11	11	11	11	11	11
Full-time Temporary Staff	---	---	---	---	---	---	1	2
<b>TOTAL</b>	<b>41</b>	<b>62</b>	<b>84</b>	<b>91</b>	<b>106</b>	<b>112</b>	<b>112</b>	<b>125</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. 13/2006

**Subject: The academic qualification verification scheme and the appointment of a disciplinary procedure pre-examiner for recruitment purposes.**

In the course of handling a case, the CCAC discovered irregularities in Bureau T's academic qualification screening process for the promotion of an employee, as well as in the disciplinary procedure arising from the employee's alleged disciplinary infringement. The CCAC therefore initiated an investigation:

1. On 13<sup>th</sup> April 2004, the CCAC received a complaint indicating that employee I of Bureau T had been promoted with the aid of "purchased" academic certificates and his connection with "high-ranking officials". Investigations verified that employee I was a junior high school graduate and was employed as a 3<sup>rd</sup> grade auxiliary officer on contract basis. Following submission to the Bureau of academic qualification documents obtained from the Administrative Management Training Institute of Guangdong Province ("Training Institute"), employee I was immediately promoted to the position of 3<sup>rd</sup> grade officer. In fact, employee I once applied to the Tertiary Education Services Office for authentication of the said documents. However, in April 2001, his application was rejected because "the Training Institute is not classified as an institute of higher education and as such is not qualified for issuing state-certified academic diplomas". When Administrative Regulation No. 26/2003 ("New Regime") came into effect, employee I had the said documents "authenticated" by a Public Notary in Mainland China and then submitted them to the department concerned in November 2003. The employee was promoted in January 2004. In view of the above, the CCAC investigated the case.

2. The CCAC sent official letters to Bureau T twice, quoting the reasons for which the documents were rejected by the Tertiary Education Services Office, and informed the Bureau of the CCAC findings, obtained with the aid of the law enforcement entities in Mainland China

and confirmed by the Department of Education of Guangdong Province: the Training Institute was not on its own qualified to issue state-certified academic diplomas. The CCAC also urged the Bureau to initiate disciplinary procedure against the employee, who had intentionally concealed the fact that his qualifications were not recognised and had misled the Bureau into believing that he was academically qualified for the position of officer.

3. Bureau T indicated in its reply to the CCAC that the ratification of employee I's academic qualifications was conducted in accordance with the "New Regime". By virtue of the review, the Bureau regarded employee I as qualified for the position he had taken, and confirmed the authenticity of the documents submitted. However, the Bureau finally initiated disciplinary procedure against employee I in September 2005. The Director of the Bureau suggested that the Secretary to whom the Director was subordinate appoint a lawyer as the pre-examiner on the grounds that the case was very special and the enforcement of law and transparency should be ensured, and that the procedure should be initiated as soon as possible. With the Secretary's approval, the Bureau passed to the pre-examiner the two letters from the CCAC and the Bureau's replies.

4. During the pre-examination, on 19<sup>th</sup> October, employee I claimed in a hearing to the pre-examiner that he went through the verification formalities only because the Mainland Public Notaries certify only those documents issued by accredited institutions. Employee I then applied on the following day to enrol in a graduate programme with the Macau University of Science and Technology. He was notified of admission by the University on 21<sup>st</sup> October. He immediately submitted a copy of the admission notification to the pre-examiner, claiming that the admission was based on the provision of a certificate of tertiary education, and therefore his academic qualifications were deemed acceptable to the University.

5. The day after the hearing, the pre-examiner sent an email to the Department of Education of Guangdong Province and enquired whether the Training Institute was legally established; whether it had the right to conduct tertiary and technical secondary courses; to which level of academic qualification its diplomas equated, and whether the diploma issued to employee I by the Institute was genuine. However, the pre-examiner never received a reply. The pre-examiner also asked the Tertiary Education Services Office to forward all the documents that the employee had originally filed for authentication of his academic qualifications.



6. The pre-examiner submitted a report after completion of the procedures. The pre-examiner claimed in the report that the reason quoted by the Tertiary Education Services Office in rejecting employee I's application was different to the legal stipulation of "standard in form" in Article 5 Clause 3 of Decree-Law no. 39/93/M (hereinafter referred to as "Old Regime"), which states that "the education institutes from which the applicants obtained their academic qualifications must be officially recognized by the country or region concerned". It is in the understanding of the pre-examiner that the legal prerequisite for recognizing academic qualifications was that the related institutes be "officially recognized" rather than "qualified to issue academic diplomas".

7. It is worth noting that an education institute established through legal due process means only that it is officially allowed to operate. The courses offered by the recognized tertiary education institutes are still to be assessed and approved by a separate official process, to ensure that their academic levels meet officially prescribed standards. Therefore, the word "recognized" in the clause should be deemed to cover recognition in both of the above mentioned aspects. In addition, Clause 3c of Article 9 of the "Old Regime" stipulated that the applicant should submit documents such as study plan, course curriculum and academic reports when applying for authentication of academic qualifications. It indicates the legislators' intention that the applicants' qualifications be assessed through objective analysis to ensure that non-government educational institutions (even if officially recognized) meet the specified standards.

8. From the above analysis, it becomes obvious that the pre-examiner had made a one-sided interpretation of the clause while neglecting the systematic framework of the norms, purposes and intention of the regulation concerning the recognition of academic qualifications. Based on that interpretation, the pre-examiner challenged the legality of rejecting employee I's application for authenticating qualifications on the part of the Tertiary Education Services Office. That challenge was not well founded.

9. The pre-examiner pointed out that the "New Regime" stipulated that "the assessment of academic qualifications is meant to confirm whether the claimed academic qualifications make the interested party suitable to take a specific public position and be engaged in the professional activities supervised by public entities . . . as well as to verify whether the related academic certificates are appropriate and genuine". Therefore, the pre-examiner inferred that the "New Regime" had abandoned the "criteria in form" specified in the "Old Regime"

and established “substantial criteria” instead. Once Bureau T believed that employee I was academically qualified to take the position while the verification of the academic certificates was proved after “authentication”, it should be deemed to meet the “substantial criteria” specified by the “New Regime”.

10. Nevertheless, it is necessary to point out that while the “New Regime” requires the employing department - the entity which verifies the academic qualifications - to scrutinize whether the claimed academic qualifications make the interested party suitable to assume a certain public employment, the “New Regime” also requires the department to verify whether the related documents were appropriate and genuine. Whenever the department has doubts about documents, it should proactively take measures to verify those documents, according to Article 59 and Clause 1 of Article 86 of the *Code of Administrative Procedures*. The verification duty must be performed strictly since current regulations stipulate that academic qualification is one of the common prerequisites for taking public employment and one may be exempted only with definite legal permission while meeting the specified premises. If entities are allowed free latitude in assessing academic qualifications, the legal effort to ensure that candidates have proper academic qualifications for public employment may be made in vain.

11. On the other hand, by viewing the documents provided by Bureau T, the pre-examiner should have been aware that the findings notified by the CCAC had been confirmed by the Department of Education of Guangdong Province. Nonetheless, the pre-examiner still enquired from the same Department via email - which was apparently done out of questionable intent - to verify the authenticity of the information provided by the CCAC, or to prove that employee I’s academic qualifications did in fact meet the “substantial criteria” apart from the unquestionable fact that “the State does not recognize the qualifications”. However, the one who should prove that the certificates provided meet the “substantial criteria” should be the concerned party who intended to benefit from it, rather than an administrative agency, or the pre-examiner, whose duty is to investigate whether a public servant commits malpractice in the process of assessing academic qualifications.

12. Apart from that, the appropriateness and efficacy of the way in which the pre-examiner as a private entity (law firm) sought to obtain information from the Department of Education of Guangdong Province via email is also questionable, as a Mainland official department only handles enquires made through specific official channels. The Department of Education

mentioned above in principle does not directly reply to private email enquiries from Hong Kong, Macao, Taiwan or foreign countries. Even the Tertiary Education Services Office or the CCAC can only access the information through specific official channels. If the pre-examiner deemed it necessary to obtain information, he should have done it through official channels instead of informal means (an email without means of verification of the sender's identity and authority), which resulted in no response.

13. In addition, the pre-examiner did not ascertain how Bureau T and other departments actually exercised the duty of "authenticating whether the related academic certificates are appropriate and genuine" after the "New Regime" came into effect. Neither did the pre-examiner investigate whether bias, fraud or other internal management problems were involved in the case concerned. Without such investigation, there was no way of determining whether employee I or other employees in Bureau T should bear disciplinary responsibility.

14. In regard to authenticating whether the academic certificates submitted by employee I were appropriate and genuine, the pre-examiner should have known that according to Macao's notary regulations notaries are not required to assess the credibility of document-issuing institutes under any circumstances; the pre-examiner did not examine or analyze whether other kinds of regulations existed in the Mainland notary system; nor did he examine the implications of the notary acts performed by Mainland notaries upon academic certificates in the particular case of employee I. The pre-examiner did not take any measures or conduct any analysis to determine that the Mainland notaries were not legally obliged to express any stance about the qualification of the related academic certificates or the credibility of the institute which issued the certificates to be authenticated. On the contrary, merely based on the oral testimony of employee I, the pre-examiner agreed on Bureau T's act of "acknowledging the appropriateness and authenticity of the documents based on the authentication by the notaries". This undoubtedly showed the pre-examiner's indiscretion in investigations and evidence gathering.

15. The pre-examiner regarded the admission notification of the master programme of the Macau University of Science and Technology submitted by employee I as one of the reasons for the Bureau's acknowledgement of the legality of Employee I's academic qualifications. Such an assumption showed that the related outcome and admission standards of student qualification scrutiny applied by a private higher education institute - which can be adjusted to fit its own schooling principles and policies - had been applied by Bureau T to the scrutiny of

academic qualifications conducted by administrative agencies for recruitment and promotion of employees. It seemed that the Macau University of science and Technology was treated as the scrutinizing agency of academic qualifications for administrative entities. Furthermore, even if it was feasible to quote the conclusion of the scrutiny undertaken by the university, it was logically wrong to use the facts that took place afterwards (the qualifications of Employee I submitted in 2003 could 'probably' be recognized by the Macau University of Science and Technology in 2005) as the justification for acts performed beforehand (Bureau T scrutinized the academic qualifications of employee I in 2003).

16. The foregoing scrutiny problems relating to disciplinary procedures can very much be attributed to the appointment of the pre-examiner. According to public service regulations, pre-examiners should in principle be public servants who meet the legal prerequisites. Only in exceptional circumstances may non-public servants act as pre-examiners. The director of Bureau T suggested appointing a non-public-servant (lawyer) as the pre-examiner of the disciplinary procedure in this case. However, the director did not provide any justifications (according to Clause 1e of Article 114 of the *Code of Administrative Procedures*) for such an exception. Instead, the director explained only that "the case was very special and for the purpose of ensuring legality and transparency to expedite the working process." However, the director did not explain further why following the principle – appointing public servants as pre-examiners – would create difficulties in "expediting the working process" and "ensuring legality and transparency". Neither did the director specify in what aspects the case was "special". Thus, the explanation provided for the related suggestion was insufficient. According to Clause 2 of Article 115 of the *Code of Administrative Procedures* it was as though no explanation or reason was provided at all.

17. Many defects exist when appointing non-public-servants as pre-examiners. For example, such individuals are not compelled by any obligation to public service and are therefore easily influenced by various subjective factors. In consequence, it is hard to ensure that they adopt consistent standards, as applied by the authorities in the past, to handle disciplinary problems; in addition, non-public-servants are not familiar with the operation of public administration, creating a disadvantage in the investigation procedure. Moreover, it imposes a heavier financial burden upon the administrative authorities (to pay remuneration of the pre-examiner). In this case, the pre-examiner did not know enough about the mechanics of

public administration. Nor was he familiar with the practical scrutiny of academic qualifications performed by Bureau T and other departments. In addition, the pre-examiner did not understand Mainland official departments' common practices for replying to enquiries. All these factors, of course, cast influence on the pre-examiner's arrangement of different investigation measures during pre-examination. As a result, the conduct of investigation procedure was impeded and the final judgement affected.

18. In terms of the current scrutiny of academic qualifications, the "New Regime" fundamentally changed the stipulation of the "Old Regime" that a specific department be responsible for authenticating all academic qualifications. In other words, it specifies that each recruiting department/entity (or Examination committee) should scrutinize the academic qualifications of the concerned party itself "to confirm whether the claimed academic qualifications make the interested party suitable to take a specific public position and be engaged in the professional activities supervised by public entities" as well as "to verify whether the related academic certificates are appropriate and genuine".

19. However, in practice, many departments encounter difficulties, especially in conducting recruitment examinations. The constitution of the Examination Committee is different every time and the examination procedure is restricted by the legally specified period. Also, the number of examinees is large. All these factors often create obstacles to proper scrutiny. As the "New Regime" does not specify how to conduct the scrutiny of academic qualifications, it is often the case that each department applies different measures - some strict and others lenient.

20. Nevertheless, the level of strictness of the scrutiny can severely influence whether the related party is qualified to take up a certain public post or a higher position. The outcome is easily challenged if only the recruiting department is in charge of conducting scrutiny, especially in recruiting employees without exams. Similarly, the authorities had earlier rejected employee I's application for recognition of academic qualifications. However, his qualifications still passed scrutiny conducted simply by the recruiting department. Such an outcome easily raised suspicions of nepotism and "passing the scrutiny of academic qualifications through offering benefits". The public credibility of the government could have been directly affected.

21. Although the "New Regime" specifies the Tertiary Education Services Office as the department who should "express opinions", the Office stated in principle that it has no right



of intervention in related matters when public departments seek opinions from the Office. The Office only provides the enquiring departments with the data organized in the early days when the “New Regime” was enforced for their references. Many departments think that the data are not practically useful.

22. According to the doctrine, the “opinion” should be the analysis and research conducted on practical cases followed by a conclusion in order to help the responsible departments make decisions or issue orders. For example, the Land, Public Works and Transport Bureau, Health Bureau and Fire Services Bureau have to provide opinions to the Civic and Municipal Affairs Bureau when issuing licenses to food and beverage establishments. In practice, each of these bureaus expresses opinions for or against licence issue with regard to the constructions that take place on the specific site, public health, fire safety and other matters relating to their specific authority. They do not provide opinion-seekers with reference information yet to be judged. Based on the above, the measures adopted by the Tertiary Education Services Office raised doubts about whether it had fulfilled the responsibility of “expressing opinions”.

23. The “Old Regime” stipulated that higher education qualifications were recognized by the Tertiary Education Services Office after the Office listened to opinions given by the Recognition Commission of Higher Education Qualifications. Although the related opinions did not carry any power of restriction, the Commission was responsible for the scrutiny of application. Thus, the Tertiary Education Services Office believed that the power of recognition belonged to the Commission and the Office was only responsible for assisting the Commission in the administrative, technical and financial aspects. Therefore, the issue is: after the “New Regime” came into effect, the collegiate organ which the Tertiary Education Services Office used to rely on ceased to exist anymore to exercise the duty of verifying academic qualifications. In this case, is the Tertiary Education Office still qualified to conduct analysis and research, and provide opinions in regard to the cases the departments request assistance for?

24. In the past, the “Old Regime” did not fit the academic system of the universities nowadays and did not consider the actual administrative operations of local and overseas schools and colleges to request all applicants to submit large amounts of data/documents. This resulted in a waste of applicants’ time and money, and was often criticized by citizens. As distinct from the “Old Regime”, the “New Regime” specifies that the recruiting departments must conduct their own scrutiny of the academic qualifications of applicants. It clearly facilitates the recruit-

ment process and reduces bureaucracy. However, the “New Regime” also stipulates that the Tertiary Education Services Office must provide opinions to departments that request assistance. This shows that legislators deem the Tertiary Education Services Office to be better equipped with resources and conditions to scrutinize higher education qualifications, thus affirming that the Office has the duty to provide assistance to departments encountering difficulties.

25. In this case, Bureau T is the recruiting department. Even though it was reasonable for Bureau T to have failed to realise at the outset that employee I’s qualification was not recognized by the Mainland government, it was inappropriate for Bureau T to insist on its stance even upon receiving notification from the CCAC. Since even the local government did not recognize the related qualifications, there was no guarantee with regard to the recognition and quality of the related program. It was hardly convincing that the Macao public department unconditionally recognised the related qualifications without just cause. Neither did the department strictly observe the stipulations of the Macao Public Administration Career Regime on the prerequisite academic qualifications for the officer position. Furthermore, even though the authorities believed that employee I’s capability qualified him to take the officer position according to the stipulations of the “New Regime”, the authorities should not have casually acknowledged his academic qualifications as “appropriate” since the prerequisite academic qualification required by the related position had not been fulfilled. Neither should the authorities proceed further to confirm that the related qualifications met the legal prerequisites for the officer position.

26. Based on the above, the CCAC took the following measures:

- (1) Recommended the related Secretary that he should pay attention to the disciplinary procedures against public servants under his supervision in order to prevent appointing non-public-servants as pre-examiners without just cause; requested the pre-examiner to adopt effective and practical investigation measures according to the law and to carefully analyze the facts and legal grounds, in order to ensure that the administrative authorities handle the disciplinary infringements of public servants impartially and affirm the fulfilment of the obligations of public servants;
- (2) Suggested the related Secretary that he command Bureau T to re-examine the academic qualifications of employee I; requested the Tertiary Education Services Office to provide opinions based on Article 5 of Administrative Regulation No. 26/2003 in order

to prevent the scrutiny conducted by the office from being challenged again;

- (3) Recommended that the Chief Executive order a review over the current practices of scrutinizing academic qualifications in order to coordinate the functions of the related departments particularly to clearly define the role and duties of the Tertiary Education Services Office.

In response to the CCAC's recommendations, the Secretary stated that he would ask all departments under his supervision to consider carefully whether non-public-servants were qualified for the position of pre-examiner for disciplinary procedures. In addition, the Secretary instructed Bureau T to request the Tertiary Education Services Office to jointly investigate the case of recognition of employee I's academic qualifications. It also requested the Tertiary Education Services Office to analyze the current practices of scrutinizing academic qualifications, to study how to coordinate function of all related departments, the role of the Office, etc. Progress will regularly be reported to the Chief Executive.

## II. File No. 22/2006

### **Subject: The Absence of Pregnant Public Servants Resulting from Prenatal Care/Checkups**

Many public servants reported to the CCAC that public departments/institutions were inconsistent in handling the question of whether pregnant public servants should make up absence hours resulting from "prenatal care/checkups". Some specific departments even had handling standards that were different from those adopted by their subsidiary units, resulting in unfair treatment for pregnant public servants. After its first-stage investigation, the CCAC discovered that such discrepancies did exist and were mainly attributable to the absence of a clear stipulation in the current legal system governing the staff of the public administration. Consequently, departments adopted different standards of law enforcement leading to disparities in treatment.

The CCAC thus commenced its investigations:

1. The General Regulations Governing the Staff of the Public Administration of Macao (“General Regulations”) did not stipulate the definitions and standards of “medical consultation” and “outpatient treatment”; neither did the authority issue any related guidelines. As a result, in practices, in some departments it was up to supervisors to decide whether the public servants who were directly subordinate to them need make up their absence hours. Some departments relied on whether the “medical certificate” or “proof of presence” indicated “medical consultation”; other departments relied on whether public servants held an “appointment notice” issued by doctors (i.e. appointment notice of outpatient treatment, to ascertain “outpatient treatment” so as to decide whether related public servants had to make up their hours. In addition, some supervisors in charge of human resources and administrative matters confided to the CCAC that the obscure definitions given by the related regulations and the lack of guidance by the authorities resulted in great obstacles in administrative work. They were sometimes even accused unfairly by their colleagues.

2. In terms of the nature of “prenatal care/checkups”, Bureau A - which was responsible for explaining the legal system governing the staff of the public administration- believed that “the monthly prenatal checkups are a kind of outpatient treatment because legislators did not define outpatient treatment by type”.

3. Bureau S believed that “prenatal checkups are normal regular check-ups . . . if prenatal syndromes occur, the number of prenatal checkups and subsidiary checkups will increase according to actual circumstances . . . each prenatal checkups, pregnant women will receive a notice of the following outpatient treatment; if other checkups like scans and blood tests are needed, appointment notices for these additional checkups will be issued to the patient. “Consultations” depend on the actual needs of the patient. The doctor concerned will make suitable checkup arrangement’.

4. Even during public introductions of the service of “prenatal care/checkups”, Bureau S stressed that females should schedule their first prenatal checkup promptly after confirmation of pregnancy and should follow their doctor’s advice to take a series of prenatal care checks regularly. The authorities have been expanding their “prenatal care/checkups” service in Macao gradually since the 1990s. Recently, the Bureau even established the “Macao Prenatal Diagnosis Centre” to further strengthen its work in this field.

5. According to the opinions of an experienced obstetrician specialist in Macao, from

a medical perspective, “prenatal care/checkups” and “outpatient treatments” serve similar functions. Every pregnant woman is likely to have syndromes and thus prenatal checkups are necessary. Nevertheless, the feelings of sickness are subjective and it is up to individuals to decide whether or not to seek treatment.

6. Many experienced obstetrician specialists in Macao, from either governmental or non-governmental medical offices, believe that it is necessary for pregnant women to receive regular “prenatal care/checkups”; it is both their right and obligation to receive “prenatal care/checkups”.

7. Both the World Health Organization and the Central Government believe that the State and the government are responsible for ensuring that women receive “prenatal care/checkups” “without obstacles”.

8. Based on the above, it is unreasonable to regard “prenatal care/checkups” as ordinary “consultations”.

9. It is necessary to emphasize that current regulations stipulate that special protection must be provided to pregnant women, i.e., pregnant, expectant and postnatal women can receive free healthcare. In addition, it is illegal to dismiss female employees during pregnancy and within three months postpartum. In addition, the current legal system governing staff of public administration in Macao provides assurance for female public servants during pregnancy, delivery and baby-nurturing.

10. It is widely accepted throughout the world that it is not only a right but an obligation that females receive regular “prenatal care/checkups” according to medical advice; this affects not only personal and family needs but also the common interests of society as a whole. Thus, pregnant women should not selectively take “prenatal care/checkups” at their own will but should receive treatment/checkups according to the scheduled care/checkup plan. In this way, receiving “prenatal care/checkups” should not be regarded as ordinary “consultation”.

11. Furthermore, the current service of “prenatal care/checkups” is provided during normal office hours. As an employer, the administrative authorities request pregnant public servants to carry out a deed that is both their right and obligation - receiving treatment/checkups - yet at the same time request them to make up the related hours which they cannot practically work; by contrast, mothers who choose to breast-feed their babies until their babies are



aged one may be remitted one hour of work. While both circumstances can be accounted for as reasonable absence based on the public interest and the inability to work, public servants should be exempt from making up the absence hours in both situations. Therefore, it is unreasonable to regard “prenatal care checkups” as ordinary “consultations” requiring compensation of working hours. It also deviates from the principle of legal interpretation of the system.

12. Certainly, it is preferable to specify clearly in legal system governing the staff of the public administration that it is regarded as a provision of service for pregnant public servants to be absent due to “prenatal care/checkups”. A similar clause is formally stipulated in the current public servant law of Mainland China and Portugal.

13. However, under the circumstances where the law provides no clear stipulation, as an employer the administrative authorities should never utilise a legal interpretation to justify a scheme/plan that contradicts the logic of the law.

14. Therefore, even though the current legal system governing the staff of public administration has not been completely amended, the administrative authorities should proactively provide consistent interpretations and guidelines, allowing public servants to be exempt from work during the period of “prenatal care/checkups”. This should be worked out to prevent unfairness with each department applying its own standards. In addition, the administrative authorities can set up a good example as a model employer in the Macao SAR, defend the rights and interests of pregnant women and exercise the governmental responsibility of ensuring the pregnant woman’s health in the public interest.

15. Based on the above, the CCAC recommended Bureau A to issue consistent guidelines to all departments/institutions as mentioned above to prevent unfairness with each department applying its own measures and to reduce difficulties in administration. If necessary, Bureau A can turn to Bureau S for assistance.

In response to the CCAC’s recommendations, Bureau A agreed that the law should provide protection for pregnant public servants. Bureau A promised to amend the current legal system governing the staff of the public administration to specify such women’s rights and interests. In addition, Bureau A also promised to consider the possibility of issuing consistent guidelines to all departments/institutions upon receiving the suggestions of Bureau S.

### III. File No. 14/2006

#### **Subject: Stipulations of juvenile responsibility for violations of law in the General Regulations for Public Areas**

The CCAC discovered that the General Regulations for Public Areas approved by Administrative Regulation No. 28/2004 on 16<sup>th</sup> August and the List of Illegal Acts approved by Dispatch No. 106/2005 issued by the Chief Executive regarding the juvenile responsibility for violations of law did not coincide with the current legal system. Accordingly, the CCAC informed the Office of the Secretary for Administration and Justice and the Civic and Municipal Affairs Bureau of the case. However, the formal reply by the Secretariat for Administration and Justice did not resolve the misgivings of the CCAC. The CCAC therefore commenced investigations to find out how the Civic and Municipal Affairs Bureau enforced the law in practice and conduct comprehensive research and analysis.

1. The stipulations of juvenile responsibility for violations of law in the General Regulations for Public Areas and the List of Illegal Acts do not coincide with the current legal system, especially the Juvenile Education Protection System, the General Regime of Administrative Infringements, the *Civil Code* and the *Penal Code*. In August 2005, the CCAC reported the discrepancies to the representatives from the Office of the Secretary for Administration and Justice and from the Civic and Municipal Affairs Bureau ('Civic Bureau'). The Office of the Secretary for Administration and Justice replied by formal letter in January 2006 and attached the related legal opinions (the "Opinions"), stating that there was no conflict between the General Regulations for Public Areas and the Juvenile Education Protection System and that the administrative authorities should not encounter any difficulties or doubts in exercising the General Regulations for Public Areas and in understanding what circumstances the Juvenile Education Protection System covers.

2. However, the analysis and conclusion of the "Opinions" failed to assuage the doubts of the CCAC.

3. The Decree-law No. 65/99 of 25<sup>th</sup> October stipulated an education and protection system targeting the crimes, minor infringements or administrative infringements committed by juveniles (i.e. the Juvenile Education Protection System). According to this system, related measures of education and protection would be adopted to target administrative infringe-

ments committed by juveniles based on their age: the protection measures are applicable to children under the age of 12; the education measures are applicable to juveniles aged from 12 to 15. The general regime is applicable to juveniles aged 16 or above. Based on the General Regime of Administrative Infringements, the stipulations relating to the age of responsibility in the *Penal Code* are applicable to the circumstances of administrative infringements. Therefore, juveniles aged 16 or above are regarded as persons accountable for legal liabilities and are fined as adults.

4. It merits mention that under the current juvenile-related legal framework, the legal representatives of juveniles, including parents and guardians, despite their responsibilities of disciplining the juveniles, are not regarded as the perpetrators of the related infringements. Nor are they liable to related penalties such as fines or imprisonment.

5. The *Civil Code* stipulates that persons responsible for disciplining juveniles according to the law or juristic acts are liable for the harms that such juveniles may cause to a third party. Such liability is subject to the fact that these people have not fulfilled their duty of disciplining the juveniles. Therefore, when they are able to prove that they have fulfilled the disciplinary duty, or to prove that the harms would still have happened even if they had fulfilled their disciplinary duty, they will not be held liable for the harms that such juveniles cause to a third party. In other words, if the offenders who cause harms to others are juveniles, their guardians are not regarded as offenders even though they are obliged to make compensations for the harms caused.

6. However, according to the General Regulations for Public Areas, juveniles who infringe these regulations and the List of Illegal Acts - juvenile delinquents - are liable to different legal consequences in four age ranges: no penalty for those under the age of 8; no penalty for those aged from 8 to 11 but the “accompanying and disciplining persons” will be sanctioned as offenders; those aged from 12 to 15 will be sanctioned and assume joint responsibility for the fines together with their legal representatives; for those aged from 16 to 17, if the offenders have come of age without any sources of income, they will be sanctioned and assume joint responsibility for the fines together with their legal representatives; if offenders have come of age and have a source of income, they must bear the whole responsibility for the penalties.

7. When comparing the legal consequences for “juvenile delinquents” in the General Regulations for Public Areas with the current Juvenile Education Protection System, the General

Regime of Administrative Infringements and the Penal Code, it is easy to find discrepancies.

8. Most obviously, the General Regulations for Public Areas targets “juvenile delinquents” aged 12 or above and request them to assume responsibility for the fines. Even though the regulations include a mechanism that the legal representatives undertake joint responsibility with offenders who have not come of age and have no source of income, “Juvenile delinquents” aged from 12 to 15 are clearly stipulated as the persons responsible for the concerned administrative fines. However, the existing legal system does not permit such a measure to be implemented.

9. It is noteworthy that according to the Juvenile Education Protection System, juveniles aged 12 or above - especially those aged from 12 to 15 - must receive educational measures determined by the judge if they have committed administrative offences, minor offences or even crimes. Even though it will result in financial loss for the juveniles, this kind of loss is only “to compensate for the harm caused based on the economic capacity of the juveniles”. It absolutely does not refer to any responsibility for the fines (administrative or penal) incurred.

10. In addition, the General Regulations for Public Areas regards acts perpetrated by “juvenile delinquents” aged from 8 to 11 as if they were committed by the “accompanying and disciplining persons”, i.e., sanctioning the “accompanying and disciplining persons” as offenders. In addition, the regulations also stipulate that if “juvenile delinquents” aged 12 or above have not come of age and have no source of income, their legal representatives must undertake the joint responsibility for the fines for the juveniles’ offences. These responsibility-allocation regulations relating to the fines are also not permitted by the legal system formed in the current Juvenile Education Protection System, the General Regime of Administrative Infringements and the *Penal Code*.

11. Therefore, stipulations of penalties in the General Regulations for Public Areas are “innovative”.

12. According to article 40 of the Basic Law, the right and freedom possessed by Macao residents cannot be restricted beyond the legal stipulations. However, the General Regulations for Public Areas, as “administrative regulations”, have restricted residents’ rights and freedoms beyond the current legal stipulations. Its legality should be challenged.

13. The “Opinions” state that the General Regulations for Public Areas regard the “ac-

companying and disciplining persons” as offenders with liability basically because they have not fulfilled their disciplinary duties. The “Opinions” also claim that the details of the related disciplinary duties had been stipulated in the *Civil Code* and therefore the penalty in the General Regulations has a legal foundation.

14. However, such arguments are groundless. First, if the persons who are “obliged to discipline” the juveniles aged 12 or under are responsible for ensuring that juveniles do not infringe the General Regulations for Public Areas, their “disciplinary duties” should be more prominent especially when they are accompanying the juveniles in person. In this way, the General Regulations for Public Areas should not have, on one hand, regarded the “accompanying and disciplining persons” as perpetrators of the offences committed by “juvenile delinquents” aged from 8 to 11, while on the other, failed to regard the “accompanying and disciplining persons” as perpetrators of the offences committed by “juvenile delinquents” under the age of 8, as the “accompanying and disciplining persons” for juveniles under the age of 8 have a much bigger responsibility compared with those for the 8-11 age group. However, according to the General Regulations for Public Areas, even if juveniles aged under 8 infringe related regulations in the company of their parents, the parents will not be penalized. Yet the “accompanying and disciplining persons” for juveniles aged from 8 to 11 will be penalized in the same case. From the perspective of “disciplinary duties”, under which circumstances should parents assume greater responsibility? Under circumstances whereby juvenile offenders aged under 8 commit infringements when they are both mentally and physically immature and their actions are more easily controlled? Or under circumstances whereby juveniles aged from 8 to 11 commit offences when they are less easily controlled? It is clear that the “accompanying and disciplining persons” of the former have a greater responsibility.

15. In a deeper sense, the General Regulations for Public Areas simply stipulate that “if the offences are committed by juveniles aged under 12, they are regarded as being committed by the persons responsible for accompanying and disciplining the juveniles”. In practice, this results in great doubt regarding decisions of penalty based on the harm, danger and risk caused or increased by the faults, past records and illegal acts. For example, when considering “faults”, should it be based on the act of infringing the General Regulations for Public Areas, or on the failing to fulfil “disciplinary duties”? Even the administrative authorities who meted out the penalties can hardly clarify the ambiguity. Another example is that when the authorities consider the “past records” of the offenders should they consider past infringements of the



“accompanying and disciplining persons” against the General Regulations for Public Areas or of the disciplinary duties? When the administrative authorities must also consider “the harm, danger and risk caused or increased by illegal acts”, should the standards be based on the harm, danger and risk caused or increased by the juveniles themselves with their offences against the General Regulations for Public Areas, or the harm, danger and risk caused or increased by the failure of the “accompanying and disciplining persons” to fulfil their disciplinary duties? Even the author of the “Opinions” himself has confusions in this matter.

16. Clearly, if the General Regulations for Public Areas regard the “accompanying and disciplining persons” simply as perpetrators of illegal acts and stipulate the related penalties accordingly, the illegality of infringing disciplinary duties will be mixed with the illegality of infringing the General Regulations for Public Areas.

17. According to the disciplinary duties of parents and those who exercise parental rights as stipulated by the *Civil Code*, the disciplinary duties of parents are not reflected simply by whether they accompany their children. If parents cannot accompany and discipline their children themselves and fail to entrust such duties to others and indulge their children aged under 12 in committing infringements in public areas, they have obviously infringed their disciplinary duties. However, the General Regulations for Public Areas do not penalize them accordingly for their infringements of disciplinary duties.

18. In addition, if juveniles aged under 8 are indulged in committing the same infringements as are those aged from 12 to 15, the parents of the former obviously bear greater disciplinary responsibilities than those of the latter do. However, the General Regulations for Public Areas stipulate that no penalty is required for the parents of the former while those of the latter must assume joint responsibility for the fines.

19. Moreover, the “Opinions” say that the General Regulations for Public Areas identify “accompanying and disciplining persons” as parents or legal representatives who are legally obliged to discipline the juveniles. However, the clauses in the General Regulations for Public Areas do not come to such a conclusion. The General Regulations stipulate that the related “accompanying and disciplining persons” are regarded as offenders and must bear the responsibility for any infringements committed by juveniles aged from 8 to 11. However, when it comes to the infringements committed by juveniles aged 12 or above, who have not come of age and have no source of income, the related legal representatives must assume the joint

responsibility for the fines. If the “accompanying and disciplining persons” refer to the legal representatives who accompany the juveniles when they commit offences, rather than the actual “accompanying and disciplining persons”, based on the principle that legislators “should know how to articulate the meaning with appropriate terminology”, the related clause in the General Regulations for Public Areas should have been written as “the legal representative who accompanies (the juvenile) at the time (of the offence)”. Therefore, what the regulations mean by “accompanying and disciplining persons” are naturally perceived as the persons who “actually accompany and discipline” the juveniles when they commit offences.

20. If this argument is valid, the “accompanying and disciplining persons” do not necessarily refer to persons who are legally obliged to discipline the juveniles. Those who temporarily accompany juveniles out of kindness or as neighbours will also become the “accompanying and disciplining persons”. In fact, when these individuals temporarily “accompany and discipline” such juveniles, they are also responsible for “keeping them away from danger” in terms of ensuring the personal safety of the juveniles. Thus, they are also obliged to take certain disciplinary action when the personal safety of the juveniles is under threat. Yet such disciplinary action can only be categorized as “keeping juveniles away from danger”. If these persons are regarded as “accompanying and disciplining persons” envisaged by the General Regulations for Public Areas and should thereby bear the penalty resulting from the juveniles’ offences against the General Regulations for Public Areas, while the parents or guardians who should truly undertake the requisite disciplinary duties do not have to compensate for their failure to fulfil such duties, the situation will be patently unfair.

21. According to the Juvenile Education Protection System, the administrative authorities are obliged to inform the judiciary authorities about the administrative infringements of the juveniles so that the latter can initiate related procedures. It is then up to the judge to decide which education or protection measures to adopt. However, the General Regulations for Public Areas stipulate only that the Civic and Municipal Affairs Bureau is in charge of monitoring and of sanctioning.

22. The General Regulations for Public Areas stipulate that the administrative authorities must observe the stipulations relating to the functions and power of other public departments. However, there is no mention that the Civic and Municipal Affairs Bureau is responsible for informing the judiciary authorities. The “Opinions” say that the administrative authorities will

act according to the Juvenile Education Protection System in regard to “juvenile delinquents” aged from 12 to 15. However, in reality, according to the information obtained from the Civic Bureau, the Civic Bureau has never reported offences to the Public Prosecutions Office per the directives of the Juvenile Education Protection System.

23. Therefore, there are conflicts between the General Regulations for Public Areas and the Juvenile Education Protection System, the General Regime of Administrative Infringements, the *Civil Code* and the *Penal Code*. In practice, the administrative authorities have failed to act according to the Juvenile Education Protection System as the “Opinions” have claimed.

24. Lastly, according to the Basic Law, non-local residents must also abide by the law and stipulations of Macao. When the General Regulations for Public Areas set up the “innovative” penalty rules for juvenile offenders, these rules should also be applicable to non-local residents. According to the General Regime of Administrative Infringements, after the identity of a non-local offender is confirmed, he must provide surety if not paying the fine. If he refuses to provide surety or pay the fine or lodges an appeal against the penalty decision, or if he refuses to pay the fine even after the reason for appeal is proved untenable, he will not be permitted re-entry after leaving Macao until the fine is paid. Therefore, many problems arise during implementation in practical situations when the above Regime for non-local infringers is combined with the stipulations in the General Regulations for Public Areas which specify different handling methods for the juvenile infringers at four age levels. For example, for non-local “juvenile offenders” aged from 12 to 15, their legal representatives are compelled to assume joint responsibility for the fines. However, if the “juvenile offenders” are incapable or refuse to pay the fine and surety, how can the authorities request their legal representatives to fulfil the joint responsibility? If the juvenile offenders finally leave Macao without paying the fine or surety and their legal representatives cannot be found, or if their legal representatives leave Macao without paying the fine or surety, should the juvenile offenders or their legal representatives be prohibited from re-entry? Or should both be prohibited from re-entry? It is doubtful whether the authors of the General Regulations for Public Areas have foreseen the consequences of applying the related regulations to non-local residents.

25. In summary, it is recommended that the authorities review again the General Regulations for Public Areas, especially in regard to the legality and logicity of the fine penalties borne by juveniles as well as the responsibilities borne by the individuals who are responsible

for disciplining the juveniles. The authorities should also refine the General Regime of Administrative Infringements as soon as possible so that the regulations targeting the infringements committed by juveniles can match the civic, administrative and penal nature of the offences under the Macao legal system. It should also be done to ensure that the legality of prosecution and sanction against administrative infringements is not challenged.