

充滿挑戰又一年 Another Challenging Year



郭文緯，IDS 副廉政專員兼執行處首長

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努力不懈打擊貪污

對執行處而言，2001年是另一個充滿挑戰的年頭：廉政公署是年接獲的貪污舉報數字又創新高。雖然數字較2000年僅輕微上升了2%，但相比1997回歸年所錄得的數字，增幅達46%之多——可見近年的上升趨勢仍然持續。雖然如此，我們仍是一如既往地，以堅毅不移的決心進行調查，對貪污份子予以迎頭痛擊。年內，在227宗涉及貪污及相關罪行的案件中，共有535人被檢控；部份案件更牽涉高級公務員、專業人士、有名望的商人及一位立法會議員。我們揭發了這些案件並成功檢控，並不表示香港的貪污問題正在惡化，只是反映了我們銳意剷除貪污的決心和成效，並顯示廉署人員不懼不偏，大公無私地執行職務。有關的首席調查主任會在本年報其他篇幅，就部份案件作扼要的介紹。

根據過往經驗，每當經濟不景，涉及私營機構貪污詐騙的舉報數字就會上升，近年的經濟衰退也不例外。然而，我們無法確定，舉報上升在什麼程度上是由貪污及其他罪案的實際增長所引致。再者，經濟衰退令管理層加強內部監察，並樂意向廉署舉報貪污，也可能促使舉報數字向上攀升。不論原因為何，案件數目增加，確實加重了調查人員的工作壓力。廉政公署一向得到政府當局的全力支持。財政司司長在2002年3月6日的預算案演辭中，表示將額外撥款\$1,800萬元予執行處，增設30個調查職位，以應付繁重的工作量。

專業發展，追求卓越

資訊科技已成為日常生活不可或缺的一環。要不被犯罪集團比下去，就必須在科技應用上與時並進。去年，我們落實為每位調查人員提供個人電腦工作站，以配合執行處第二代主機電腦網絡系統（執行處資訊系統）的廣泛使用。執行處下一個目標，是研

Keeping the Pressure On

2001 was another very challenging and difficult year for the Operations Department. Although the increase in corruption reports received by the Commission in 2001 over the 2000 figure was relatively small compared with the continued rising trend in recent years - a marginal 2% - this still represents yet another record high, and is 46% over that of the year of Reunification, 1997. In response, we continued to maintain pressure on the corrupt during the year through determined investigation and an unrelenting series of hard-hitting operations. As a consequence, a total of 227 cases involving 535 defendants were brought before the courts for corruption and related offences. Some of these cases involved senior civil servants, professionals, prominent businessmen as well as a member of the Legislative Council. The unearthing of these cases and our success in dealing with them does not imply a deterioration of the corruption problem, but rather reflects our effectiveness and determination to ultimately rid Hong Kong of corruption, as well as demonstrating that we carried out our statutory duty faithfully and without fear or favour. Summaries of some of the cases, as detailed by the relevant Principal Investigators, can be found in the following pages of this edition of the Review.

It has been our experience in the ICAC that economic turmoil is invariably followed by increased reporting of corruption and corruption-related fraud in the private sector. The latest economic decline was no exception, although to what extent this phenomenon represents an actual increase in corruption and other crime is not clear. It is also possible that the statistics partially reflect closer scrutiny and greater vigilance by management as a result of a shrinking economy, and their willingness to report corruption to the Commission. In any event, the resultant escalation in caseload brought considerable pressure to bear on the investigative workforce during the year. As always, we had the full support of the Administration, and in his Budget Day speech on 6th March, 2002, the Financial Secretary announced that the Operations Department would be provided with additional funds amounting to \$18 million in order to create 30 additional investigative posts to enable us to cope with the heavy workload.

究為外勤人員提供掌上電腦作通訊及數據處理用途的可行性，而有關的研究及發展計劃經已展開。

近年，執行處設立了多個專家小組，包括「財務調查組」、「電腦資料鑑證組」、「證人保護及槍械組」和「國際內地聯絡組」。這些小組大大加強了我們的專業調查能力，以應付日趨複雜和精密的貪污罪案。



2001年5月執行處首長郭文輝出席在荷蘭海牙舉行的第二屆打擊貪污全球論壇，並於會上發表演說

Head of Operations, Mr. Tony Kwok Man-Wai, speaking at the 2nd Global Forum on Fighting Corruption, The Hague, in May 2001

人力資源管理

我們一向重視人力資源管理。2001年，我們在職員招聘、培訓、晉升及員工表現評核各方面都有所革新。招聘調查人員時，除了多次面試之外，投考者還須參與心理測試——這個測試由一位首屈一指的加拿大行為心理學專家特別為執行處設計，務求客觀地識別投考者的性向，從而評估他們是否適合任職調查員。2001年1月，執行處成立了一個評核中心，規定助理調查主任晉升調查主任的考生，都要參與一個為期五天的評核測試，同事們皆認為這是一個較公平及客觀的晉升甄選程序。此外，在評核員工的表現時，我們亦確立了各項關鍵才能作為標準，並增設了強制性評級的措施，務求令評核更加客觀，同時為員工提供更具體的改進方向。

Continuously Striving for Excellence in Professionalism

Information technology has become an integral and indispensable part of our lives, and law enforcement organisations must be at the leading edge of IT development if they hope to compete on equal terms with the criminal fraternity. Having secured our objective of putting a computer workstation on the desk of every investigating officer in the Department last year to coincide with our second generation main frame computer network, OPSIS, our next goal is to establish the feasibility of providing officers with Personal Digital Assistants for mobile computing and communication in the field. The research and development work for this project is now well in hand.

The specialist Sections we have set up in recent years, which include the Financial Investigation Section, Computer Forensics Section, Witness Protection and Firearms Unit and the International/Mainland Liaison Unit, have begun to contribute significantly to our professional investigative ability in coping with the increasingly sophisticated nature of corruption cases.

Human Resources Management

We continue to maintain strong emphasis on human resources management. 2001 saw innovations in our recruitment, training, promotion and staff appraisal procedures. In recruitment, we introduced, in addition to the various preliminary and extended interviews which candidates are required to undergo, a psychometric testing component. Specially developed for us by a leading Canadian academic and behavioural psychologist, the test is designed to objectively identify and evaluate relevant aptitudes of candidates, thereby assisting recruiting staff to assess their suitability for appointment as investigators. In January, candidates in the Assistant Investigator to Investigator promotion selection exercise underwent a five-day evaluation programme at our newly established Assessment Centre. Feedback and consensus is that this process is a fairer and more objective means of selection for

我們在2001年再度舉辦「總調查主任指揮課程」，而該課程的管理學環節獲南澳洲大學國際管理學研究院的「工商管理碩士遙距課程」認可。今期指揮課程共有27名學員參與，他們分別來自香港、內地、澳門、新加坡及馬來西亞13個執法機構。

我們計劃在來年改善位於屯門的廉署訓練營，包括留宿、訓練及體育設施，並打算興建一個城市模擬靶場，供配槍人員及證人保護組人員進行戰術訓練。

我們非常關注助理調查主任的流失問題。在2000及2001年，共有60名助理調查主任離職，每年的流失率逾9%。他們大部份都是在完成了兩年半的全面訓練及導師計劃後請辭，以致浪費了不少培訓資源。這主要因為他們在廉署所取得的專業知識和工作經驗，令他們甚得其他機構垂青。為此，我們進行了廣泛的員工諮詢及研究，並實施了一系列的措施去改善這個情況。

公職人員行為不當

在上兩期執行處年報中，我匯報了廉署力求將普通法「公職人員行為不當」罪行條文化的工作進度。雖然我們根據普通法成功檢控了三宗案件，但在這些案件的審訊及上訴期間，辯方曾多次質疑，使用這條年代久遠、範圍有欠明確的不成文法是否恰當。平心而論，該普通法罪行未有清楚界定構成罪行的成分；相對於講求條文清晰易懂的現代刑事法律制度，該罪行就顯得不合時宜。年內，我們進行了廣泛的研究，參考過有類似法例的20多個國家的寶貴經驗後，我們建議將該罪行條文化。政府已成立跨部門工作小組作進一步研究，小組成員包括廉政公署及律政司的代表。

判決摘要

在今期年報第26頁，新增了一個「判決摘要」的部分，摘錄香港法庭在年內所作出與貪污案件或廉署工作有關的重要判決。其他反貪機構或從事法律研究的人士，在建

promotion. We have also introduced a core-competency and forced ranking approach in our staff appraisal system, with a view to making it more objective and providing better feedback to staff for improvement.

Another feature of the 2001 training year was the Chief Investigators Command Course, which was accredited with the University of South Australia International Graduate School of Management Distance MBA programme. The 2001 course was attended by 27 participants representing 13 law enforcement agencies in Hong Kong, Mainland China, Macau, Singapore and Malaysia.

In the coming year we plan to enhance our residential training centre in Tuen Mun, with improvements to accommodation, training and sporting facilities, and the construction of a close-quarter battle range for tactical training of our Arms Issued and Witness Protection Officers.

However, we are deeply concerned with the staff wastage problem in our Assistant Investigator (AI) grade. In the two years 2000 and 2001, we lost a total of 60 AIs, mainly through resignation, which amounts to an annual wastage of over 9%. Most of these AIs left after they had completed our comprehensive two-and-a-half years training and mentor programme, resulting in huge wastage of public funds in training costs. Not surprisingly, they were much sought after by other organisations for the professionalism and experience they had acquired in their ICAC service. After wide staff consultation and research, we have implemented a series of measures with a view to resolving the problem.

Misconduct in Public Office

In the last two editions of this publication, I reported progress in our endeavours to persuade the Administration of the need to codify in Hong Kong legislation the common law offence of misconduct in public office. Although we have successfully prosecuted three cases under the common law, there has been defence criticism, both at the trial and appeal stages, as to the propriety of using this archaic, unwritten and imprecise law. In fairness, the common law offence, by definition, leaves much to be desired in terms of clearly identifying the ingredients of the offence, and does not sit well in a modern criminal justice system where the meaning and scope of offences should be clear and intelligi-

立貪污案例的資料庫時，可以參考這些判決的詳細內容。

回顧與感想

我將於今年內退休，若一切如願，將會繼續進修及從事社會服務，一償多年來的心願。當我回顧在廉署工作的歲月，不禁感到滿足和自豪，這並非基於我個人的成就，而是因為廉政公署實在作出了不少貢獻，令香港今天仍然是廉潔公平和有利營商的好地方。在我而言，過去六年非常富於挑戰性。在回歸前一年，我被委任為首位華人執行處首長；當其時，本港及海外不少言論均猜測，香港的貪污情況將會惡化，而廉政公署的效能和獨立性將盡然無存。回歸後，廉署繼續秉公執法，對貪污份子窮追猛打，一次又一次粉碎了他們的非法活動，確實地展示出有效的反貪功能。

廉政公署能夠成功打擊貪污，實有賴許多重要因素，首要的當然是香港的法治精神、明智果斷的政府以及廣大市民的支持。然而，廉署能夠取得如此佳績，亦完全因為得到本港、內地及海外其他執法機構衷誠合作，以及律政司諸位同事的鼎力支持。我衷心感謝他們的協助，亦深信他們會繼續支持我的接任人。此外，富於專業精神、對工作充滿拼勁和熱誠的廉署人員，也是我們賴以成功的要素。打擊貪污對廉署人員來說，不僅是一份工作或職業，更是一個崇高的使

ble. During the year, we completed comprehensive research into this matter, and our proposals for codification, which draw experience from over 20 countries with similar legislation, are now being studied by a government inter-departmental working group, which includes the ICAC and the Department of Justice.

Summary of Significant Judgements

A feature appearing for the first time in this year's Review is the Summary of Significant Judgements, which can be found on page 26. This contains a digest of interesting or important judgements which have been handed down by the Hong Kong courts during the year, either arising from corruption cases or having particular relevance to the work of the ICAC. Details of these judgements should become a useful reference for other anti-corruption agencies and legal researchers in developing a database of corruption case law.

Some Final Reflections

I shall retire from the Commission this year, and, hopefully, will be pursuing some personal goals in education and community service which my busy agenda as Head of Operations of the ICAC has previously rendered impossible. It is with considerable pride and satisfaction that I look back on my career with the ICAC; not because of my own accomplishments during that career, but because of the Commission's inestimable contribution toward making Hong Kong a cleaner and fairer place in which to live, work and conduct business. The last six years have been particularly challenging and rewarding for me. I was appointed as the first local officer to head the Operations Department just a year before the Reunification, amidst widespread speculation both locally and overseas that corruption would escalate and the ICAC would lose its effectiveness and independence. With strong enforcement action, we have demonstrated unequivocally the ICAC's continued effectiveness in the fight against corruption.

The ICAC's success in the battle against corruption has been rightly attributed to a number of crucial factors, notably the rule of law, judicious government and community support. But there are two other, equally important, factors without which that success could not have been



高檢外事局局長葉峰博士訪問廉署時向執行處首長郭文輝致送紀念品

Head of Operations, Mr. Tony Kwok Man-Wai, receiving a souvenir from the Director General of the Foreign Affairs Bureau of the Supreme People's Procuratorate of PRC, Dr. YE Feng, during the latter's visit to ICAC

命；他們夙夜匪懈、殫精竭慮地為了肅貪倡廉的理想而努力，是一支高度專業的精英隊伍，為不少國家或地區所欽羨。過去二十七年，我有幸跟這一群充滿理想的人員一同服務，實在引以為榮。我謹向過去及現在的廉署人員致以萬二分的敬意；我亦確信，憑著廉署人員的堅定承擔，貪污勢難在香港再次肆虐！

achieved. Firstly, our partnership approach with local, Mainland and overseas law enforcement agencies, and - most importantly - with our colleagues in the Department of Justice who are our staunchest allies. I sincerely wish to thank them all, and hope that they will continue to give their unreserved support to my successor. Secondly, the men and women whose professionalism, dedication and determination turned the vision into reality - the officers of the ICAC. In my twenty-seven years with the Commission it has been my privilege to serve alongside numerous officers who regarded their work not just as a job, or even a vocation, but as a mission, their avowed intent to do their utmost to rid Hong Kong of the evil of corruption. Together, we forged an elite and highly professional anti-corruption investigative agency, the envy of many other countries. It is to these officers, past and present, that I pay tribute as I leave the service of the ICAC, in the sure knowledge that, because of their unfailing commitment, the evil of corruption will never again be able to rear its ugly head unchallenged in Hong Kong.