

Policeman gets 14 months for bribery and misconduct

27 March 2015

A Police Constable (PC), charged by the ICAC, was today (Friday) sentenced to 14 months' imprisonment at the District Court for soliciting and accepting advantages, and misconduct in public office by conducting unauthorised checks on personal particulars and/or criminal records from government computer databases for a businessman.

Cheng Chi-yuen, 36, earlier pleaded guilty to three charges – one of public servant soliciting an advantage and one of public servant accepting an advantage, contrary to Section 4(2)(a) of the Prevention of Bribery Ordinance; and one of misconduct in public office, contrary to the Common Law.

Sixteen other charges of obtaining access to a computer with a view to dishonest gain for the defendant or another, contrary to Section 161(1)(c) of the Crimes Ordinance, were ordered to be left on court file.

In sentencing, Judge Sham Siu-man said the defendant used his official capacity to seek personal gains, but such acts would not be endured in Hong Kong in view of zero tolerance towards corruption. If corruption, like a cancer, was allowed to be spread, the society would suffer.

The judge said the starting point of two years in jail was reduced to 14 months after taking into account various factors, including the defendant's guilty plea and his assistance rendered to the prosecution.

The judge also ordered that the advantage of \$10,000 accepted by the defendant in relation to the repair of his vehicle be restituted.

The court heard that at the material time, the defendant was a PC of the Hong Kong Police Force (HKPF).

The defendant came to know a businessman in an investigation of the HKPF in 2009 when he was attached to a District Investigation Team of Yuen Long District. Since April 2012, he had been posted to a District Investigation Team of Tai Po District.

Between November 2012 and January 2013, the businessman requested the defendant to conduct searches on personal particulars of five persons from the computer database of the HKPF to facilitate his debt collection business.

The defendant wilfully and intentionally misconducted himself by obtaining or instructing another PC to obtain personal particulars and/or criminal records of those persons by conducting searches from the computer databases of the HKPF and the Transport Department (TD).

The defendant then divulged those information to the businessman through telephone contacts or mobile phone messages.

The court heard that between December 2012 and January 2013, the defendant solicited a loan of \$20,000, but the businessman did not lend any money to him.

In December 2012, the defendant asked the businessman to repair his vehicle as he knew the businessman was also a director cum shareholder of a garage. Upon completion of the repair, the businessman gave the defendant an invoice in the amount of \$11,000, but told the defendant to pay \$1,000 only.

The defendant solicited and accepted the above advantages on account of his obtaining and divulging the information to the businessman, the court was told.

The case arose from a corruption complaint referred by the HKPF. The TD and the HKPF had

rendered full assistance to the ICAC during its investigation.

The prosecution was today represented by prosecuting counsel Alex Ng, assisted by ICAC officer Murphy Chan.

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警員涉貪污及行為失當判囚十四個月

2015年3月27日

一名警員索取及接受利益，以及公職人員行為失當，即在未獲授權的情況下，為一名商人在政府電腦資料庫查閱多名人士的個人資料詳情及/或刑事紀錄，被廉政公署拘控。被告今日(星期五)在區域法院被判入獄十四個月。

鄭智遠，三十六歲，早前承認三項罪名，即一項公職人員索取利益及一項公職人員接受利益，違反《防止賄賂條例》第4(2)(a)條；以及一項公職人員行為失當罪名，違反普通法。

至於被告另外十六項罪名，即目的在於使其本人或他人不誠實地獲益而取用電腦罪名，違反《刑事罪行條例》第161(1)(c)條，則被紀錄在案。

法官沈小民在判刑時表示，香港社會對貪污零容忍，絕不姑息被告藉公職之便以權謀私的行為。貪腐行為有如毒瘤，縱容它蔓延只會令社會受害。

法官續稱，量刑起點為兩年，但考慮多項因素，包括被告承認控罪及協助控方，因此將刑期減至十四個月。

法官又命令被告須向政府歸還就維修其車輛所收取的一萬元利益。

案情透露，被告於案發時為香港警務處的警員。被告於二〇〇九年隸屬元朗區一個刑事偵緝調查隊，並於調查一宗香港警務處案件時認識一名商人。自二〇一二年四月起，被告駐守大埔區一個刑事偵緝調查隊。

二〇一二年十一月至二〇一三年一月期間，該名商人要求被告利用香港警務處的電腦資料庫查閱五名人士的個人資料詳情，以便商人向他們追收欠債。

被告故意及蓄意作出失當行為，即藉搜尋或指示另一名警員在香港警務處及運輸署的電腦資料庫，查閱該五名人士的個人資料詳情及/或刑事紀錄。被告其後透過電話或手提電話短訊向該商人泄露有關資料。

案情透露，被告於二〇一二年十二月至二〇一三年一月期間，向該商人索取二萬元貸款，但該商人並沒有將款項借給被告。

被告知悉該商人是一間車房的董事兼股東，並於二〇一二年十二月要求商人為他維修其車輛。在車輛維修完後，商人將一張一萬一千元的發票給予被告，但表示被告只需支付一千元。

被告從該商人索取及接受上述利益，以取得及泄露有關資料予有關商人。

廉署早前接獲香港警務處轉介的貪污投訴。在調查有關案件期間，廉署獲得香港警務處及運輸署提供全面協助。

控方今日由大律師吳政煌代表出庭，由廉署人員陳德輝協助。

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