

# Office for Personal Data Protection

# Annual Report 2009

## *Unofficial English Translation*

### **Disclaimer**

This is an unofficial English translation of some major chapters in the Annual Report 2009 of the Office for Personal Data Protection. It does not include any legal documents published in the Annual Report, namely Opinions and Authorisations. Please visit the Office's website [www.gdp.gov.mo](http://www.gdp.gov.mo) to get some of their available translations.

We regret that a full English translation of the Annual Report is not provided. Please note that the official languages in Macao SAR are Chinese and Portuguese. You should not act or rely on any unofficial English translation of legal documents without seeking legal advice when appropriate.

Office for Personal Data Protection  
Government of Macao SAR  
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## Preface

The year 2009 saw this Office advance with one of its priority undertakings – the registration of government agencies’ personal data processing – which, with the support and cooperation from the departments concerned, was carried out as planned. Relatively new to the community, personal data protection and data protection law need better understanding and appreciation by the citizens. The difficulties experienced by some government agencies which this Office shared in its work on the registration of personal data processing seem to attest to this observation. However, those challenges do affirm the importance of this work. It became obvious that a good registration system can make institutions examine their personal data processing operations, and bring their data processing in line with the law by correcting improper practice and preventing deviation from the law. It will thus prevent them from encroaching on citizens’ personal data and incurring unnecessary legal responsibilities, which may be due to their taking data processing less than serious or the lack of orientation in their data processing policies, or their staff’s lack of guidance or training. Addressing these difficulties, the Office set itself to serious and proactive studies of the current laws as well as the experiences of other countries or regions in our search for solutions. In February 2009, the Office issued its *Opinion on Storage Timelines of Public Archives Involving Personal Data* to the institutions concerned, as a guide for them to set their data storage timelines in accordance with the law. Meanwhile, the Office managed to push the work ahead relatively smoothly by having work sessions with those institutions and offering help with their tackling of the problems.

In terms of global connection, the Office took the opportunity of participating in the 31<sup>st</sup> Asia Pacific Privacy Authorities (APPA) Forum in Hong Kong in June 2009, to invite to Macao participants from various countries and regions, including Professor Zhou Hanhua of the Institute of Law, Chinese Academy of Social Sciences, President Luís Silveira and Judge Carlos Lobo of the Portuguese National Data Protection Commission, and held a seminar and a conference in collaboration with the Legal and Judicial Training Centre, , so that the citizens and local institutions might learn from other parts of the world in terms of legal framework and practical experiences, and might develop a global perspective on the work of personal data protection. The Office also managed to build its relationship with data protection authorities and academics from various countries by way of participation in APPA Forum and the International Conference of Data Protection and Privacy Commissioners.

On the publicity front, the Office took part in the events *Public Servants Rejoice with You* and *IT Week 2009*, by preparing publicity items, ads, audio materials, among other things, as well as by introducing the *Personal Data Protection Act* to the citizens in as many ways and forms as the events could afford. Apart from that, the Office continued to enhance people’s awareness of the law by way of presentations, symposiums, etc., in collaboration with other institutions.

The year of 2009 also saw a continuous increase in the complaints and enquiries

by the citizens, which posed a challenge and additional work, given that the Office was also working on registering personal data processing by government departments. However, the Office managed to overcome those difficulties and continued to fulfil its duties in steering and coordination with consistent professionalism. A decision was made for the first time to penalise a public agency with a fine for its administrative offence. Cases that did not involve breach of law but received a lot of attention from the public were also processed, decided on and made public in a timely manner. While there were still rooms for improvement in the Office's work, it largely met the community's expectations judging by the feedback from the social sectors.

Looking forward to 2010, the Office is poised to proceed along the line of "awareness first, penalty second" in its work, and continue to proactively present the *Personal Data Protection Act* to the public, as well as steering the community's implementation of the law as it should be. The Office looks forward to taking the community's personal data protection to a higher level with the support and cooperation by the public and all institutions.

Chan Hoi Fan

Coordinator

## Major events in 2009

1/2009

- Office relocation to floor 13, China Plaza

5/2009

- Participation in the Plenary Meeting for Data Protection Officers' Club in Hong Kong

6/2009

- Participation as an observer in the 31<sup>st</sup> APPA Forum
- Seminar entitled *Moving Ahead with the Times: Personal Data Protection in Mainland China and Portugal* at Auditório do Edifício da Administração Pública on 12 June 2009 in conjunction with the Legal and Judicial Training Centre
- Conference entitled *Data Breach: Problems and Solutions* at the Macao Cultural Centre, in conjunction with the Legal and Judicial Training Centre

8/2009

- Conference on *Protecting Your Customers' Data* at the Macao World Trade Centre on 31 August 2009 in collaboration with the Judiciary Police and the Payment Card Industry Organisation

10/2009

- Participation in *Public Servants Rejoice with You*

11/2009

- Participation as an observer in the 31<sup>st</sup> International Conference of Data Protection and Privacy Commissioners
- Participation in *IT Week 2009*

## Processing of enquiries and complaints

### I. Enquiries about law

In 2009 the Office received a total of 602 enquiries about personal data (excluding those regarding procedures). Taken with the 1 enquiry left over from 2008, the Office had 603 enquires to handle, of which 598 were concluded. 33.6% of the enquiries was about the legitimacy of personal data processing. 89.4% was made over the phone, by enquirers of rather evenly divided categories, with public agencies accounting for 37%.

Fig. 1 – Categories of enquiries by nature

	Number of enquiries
Legitimacy of data processing	202
Scope of application and definitions of the <i>Personal Data Protection Act</i>	51
Nature and principles of data processing	97
Rights of data subjects	104
Security and Confidentiality of data processing	11
Data combination	31
Data transfer	33
Notifications and authorisations	185
Consequences of law breaching	6
Guides prepared by the Office	40
Rights to privacy provided for by other laws	14
Others	41

Note: Some of the enquiries involve more than one of the points listed above.

Fig. 2 – Means of enquiry

	%
Online	8.0
Phone	89.4
Personal visits	2.6

Fig. 3 – Categories of enquirers

	%
Public agencies	37.5
Private institutions	28.4
Individuals	34.1

As the Office carried out its work, there was a growing sense of personal data protection among the citizens, and with it came a corresponding rise in the number of enquiries.

Fig 4 – Growth in enquiries

Year	2007	2008	2009
Number of enquiries	43	207	602

## II. Case investigation

The Office identified a total of 47 cases to investigate in 2009, a 34.29% rise over the 35 cases in 2008. With the 11 cases from 2008, the Office had 58 cases to investigate, of which 29 were concluded. Of the 47 new cases investigated in 2009, 63.83% was about lacking legitimacy in data processing, 19.15% was about breaching of the data processing principles, and 63.83% was instigated as a result of data subjects' complaints. Of the parties investigated, private institutions accounted for 57.57%, the majority. Of the 29 concluded cases, 10.34% was found truthful presented.

Fig. 5 – Investigated cases by nature

	Number of cases
Found lacking legitimacy in data processing	30
Found breaching data processing principles	9
Involving failure to secure data subjects' rights	3
Involving lack of security precautions	2
Involving breach of confidentiality obligations	3

Fig 6 – Investigated cases by ways of instigation

	Number of cases	%
Complaints	30	63.8
Reports	10	21.3
Reference	4	8.5
Voluntary intervention	3	6.4

Fig. 7 – Categories of investigated parties

	Number of cases	%
Public agencies	11	16.67
Private institutions	38	57.57
Individuals	17	25.76

Note: Some of the investigated cases involved more than one investigated party.

Fig. 8 – Categories of investigated private institutions (Number of cases)

Commercial enterprises	Public enterprises (excluding telecommunication and the media industries)	1
	Gaming	4
	Hotel	1
	Finance	5
	Insurance	2
	Telecommunication	5
	Property management, cleaning and security	2
	Health and hygiene	1
	Education	3
	The Media	3
	Publication and printing	1
	Promotion and consultancy	2
	Architecture	1
	Real estate (property)	1
	Individualised services	1
Associations, non-profit organisations and the likes		5

Note: Some of the investigated cases involved more than one investigated parties.

Fig. 9 – Results of concluded cases

	Number of cases	%
Verified as truthfully presented	3	10.3
Claims in discrepancy with facts	10	34.5
Unable to follow up on for lack of specific information	4	13.8
Referred to the police organs who have the authority to follow up on	4	13.8
Cancelled at the request of the subjects	2	6.9
Found to be out of the Office's terms of reference	6	20.7

Fig. 10 – Growth in investigated cases

Year	2007	2008	2009
Number of cases	22	35	47

### **III. Summary of selected cases**

The following is the summary of some selected cases.

## **Case 1:**

### **Complaint and investigation**

A citizen complains that the Post Office has failed to take effective measures to protect his personal data, by misdelivering his bank account monthly statements and credit card monthly statements to addresses other than that indicated on the statements, which has led to his personal data being disclosed to the wrong people.

According to the Post Office's response, the allegation is about ordinary letter mails. Follow-up investigation revealed no sufficient evidence to establish the complainant's case, without ruling out the possibility of misdelivery by the mailman.

### **Conclusion**

According to Article 1 and no. 1 c) of Article 2 of Decree-law 2/89/M (Organic Law of the Post Office), it is the mission of the Post Office to provide post services, especially as required by mail transport to or from or in transit via Macao. Apparently, the Post Office's handling of ordinary letter mails mainly involves collection, transport and delivery procedures, as the business of a transporter requires. Therefore, the Post Office does not engage itself in processing the personal data of letter senders or receivers by collecting, registering and keeping or using such data. According to no. 1 (3) of Article 4 of Law 8/2005 (the Personal Data Protection Act), "processing of personal data shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction."

Therefore, the handling of ordinary letter mails by the Post Office does not involve "personal data processing" as defined by no. 1 (3) of Article 4 of the Personal Data Protection Act. Hence it is not within the scope of application of the Act (see Article 3 of the Personal Data Protection Act).

According to *Despacho* 83/2007 of the Chief Executive, it is the duty of the Office for Personal Data Protection to supervise and coordinate the community's compliance and implementation of the Personal Data Protection Act. While the issue in question does not fall in the scope of this Office's responsibilities, the Office has referred the complaint to the Post Office and the latter has taken corresponding improvement measures.

## **Case 2:**

### **Complaint and investigation**

In September 2008, citizen A alleged that the Consumer Council (hereinafter referred to as the Council) had improperly provided her copies of ID document to citizen B, enabling B to make use of them in illegal dealings.

Investigation verifies that in March 2008, resident B sought help from the Council for resolving his dissatisfaction with the service provided by resident A's shop for its sold goods. After some mediation by the Consumer Arbitration Centre (Hereinafter referred to as "the Centre"), A and B entered into an "Agency Agreement on Dispute Settlement" (hereinafter "the Agreement"). However, citizen A defaulted on her obligation under the Agreement, making no compensation to B. Therefore, B turned to the Council for help. On B's request, the Council made repeated attempts to contact A by phone, mail or field visits to A's shop, which all ended in vain. The Council found later that A had closed the shop for good. Afterwards, the Council was informed by the Commercial Registry and Finance Services Bureau that there was no registration nor tax record available with the authorities pertaining to A's shop. In view of this fact, the Council proposed that B pursue his case through judicial channels. In June 2008, B asked the Council for copies of the Agreement and A's ID document, to be used in taking legal action with the Court of Minor Civil Cases for compensation. The Council provided B with copies of the documents that A had requested.

### **Conclusion**

After analysing all aspects of the case, the Office held that the Council's providing copies of resident A's ID document to resident B had constituted a breach of the principle of proportionality provided for in no. 1 (3) of Article 5 of the Personal Data Protection Act. Therefore, this Office decided to penalise the Council with a fine of MOP 4,000.00 in accordance with no. 1 of Article 33 of the same Act (for detail refer to Summary Case Decision 24/2008 available on the Office's website).

### **Case 3:**

#### **Complaint and investigation**

A local middle school is alleged to require its students to submit their registration forms each year on their renewal of enrolment registration, even if their data remain unchanged, together with copies of their parents' ID documents, copies of the students' passes for travel to the mainland. The complainant believes that the middle school is guilty of over-collecting personal data, and of disregarding the data subjects' right to information. The complainant also doubts that the school has taken sufficient measures to protect the collected personal data.

Findings from the follow-up inquiries indicate that the school requires only certain students (students of the junior first year, senior first year, senior third year and all the new students) to submit their "enrolment registration forms" and copies of student card, copies of their valid ID documents and that of their parents or guardians. It is not an annual collection measure, nor is it compulsory for students to submit copies of their passes for travel to the mainland. The school collects the required data to build, update and compare its student databases. Besides, to ensure accuracy of the student data, the school collects students' personal data again before preparing the students' diplomas. The school does not have a statement on personal data collection or personal data processing policy available to the students, but has taken basic measures to protect the students' personal data in its processing.

#### **Conclusion**

The data processed by the school of the students, their parents or guardians are within the scope of legal protection defined in no. 1 (1) of Article 4 of the Personal Data Protection Act. Besides, the data collected with the "student enrolment registration form" include student's religion and "the date and place of baptism", which fall in the category of religion data defined in no. 1 of Article 7 of the Personal Data Protection Act as sensitive data. Therefore, pursuant to the provisions of no. 1 of Article 3 of the Personal Data Protection Act, the data processed by the school of the students and their parents and guardians are subject to the provisions of the law.

It is legitimate for the school to process the personal data of its students and their parents or guardians for the purposes of fulfilling its legal and managerial obligations in accordance with Article 6 of the Personal Data Protection Act and no. (1) of Article 29 of Decree-law 38/93/M (Regulations of Private Non-tertiary Education Institutions) and Decree-law 81/92/M (Organic Law of the Education and Youth Affairs Bureau). As a Catholic school it also has the legitimacy in collecting and handling students' sensitive data for the purposes of arranging for the students' church activities, in compliance with no. 3 (2) of Article 7.

While it is legitimate for the school to process its students' personal data, the school must nonetheless abide by the provisions of no. 1 (3) of Article 5 of the Personal Data Protection Act, which provide that personal data processing must be *"appropriate, relevant, not excessive in relation to the purposes for which they are*

*collected and/or further processed*". In other words, the extent to which the school may collect the students' personal data should be decided based on the purposes of the processing, and kept to a minimum, avoiding collecting any data that are irrelevant to the purposes. Otherwise the school may breach no. 1 of Article 33 of the Act or commit administrative offence.

The practice of requiring certain students to submit their "enrolment registration forms" is in line with the requirements of the school's obligations to manage student database and provide accurate student data to the Education and Youth Affairs Bureau, as is the practice of regular updating student registration data and checking them with the collected copies of students ID documents. The school's practice of collecting copies of students' "passes for travel to the mainland" is proved necessary for facilitating the students in providing data to travel agencies. Its collecting student religion data for the arrangement of religious activities is also proved pertinent with the purposes of its activities, and thus meets the provisions of Article 5 of the Personal Data Protection Act.

Therefore, the school's processing of student personal data is found in compliance with the principle of legality and of good faith, and in line with the provisions of Article 5 of the Personal Data Protection Act, necessitated by the purposes of the processing without violating the principle of proportionality.

However, as a data controller, the school has failed to provide adequate information to the students who are data subjects about its data processing as required by Article 10 of the Personal Data Protection Act. Therefore, this Office advises that the school prepare its statement on personal data collection and policy on student data processing, and make sure that its students are properly informed.

On the other hand, there is no evidence indicating that the school has failed to take any measure to protect the student data it undertook to process.

## **Case 4:**

### **Complaint and investigation**

A resident in a residential building is reported to have installed a CCTV camera at the door of his or her flat, and is suspected to have infringed on the personal privacy of other residents in the building.

### **Conclusion**

According to no. 1 (1) of Article 4 and no. 1 of Article 3 of the Personal Data Protection Act, if the resident did indeed have a CCTV camera installed at the door to his or her flat, and the images derived from the camera are sufficient for identifying any data subjects, then the Personal Data Protection Act would apply to the case. No. 2 of Article 3 of the Act provides, however, that if personal data processing in question proves to be about a natural person's personal or family activities, it is not subject to the provisions of the Act, unless the data concerned are used for systematic communication or dissemination.

As the building referred to in the complaint is a residential one, this Office assumes that the flat in question is a residence. If the CCTV camera is installed at the door of the flat, it must be in a quarter of the floor that is common to all the floor's residents (cf. Article 1324.1.(f) of the Civil Code). An installation like this is presumably owned by the owner or user of the flat, probably for private purposes, such as family security. The camera is presumably pointed at no specific object or person. There is no sign or evidence showing that the owner of the camera is using the images derived from it for systematic communication or public disclosure, as in posting them on the Internet. Given that this is the case, then it is not subject to the Personal Data Protection Act, and this Office will in general not interfere with it. Otherwise, the case is subject to the Personal Data Protection Act. If the owner of the installation proves to have violated the law, he or she may have committed an administrative law breach, or even crime.

In view of the fact that the installation is found in the building's common area, it is likely that other residents on the floor (property owners) will find it intruding on their privacy. If so, they may report the case to the property owners' council, because according to the Civil Code, the council is expected to regulate the use, proceeds, security and conservation of the common area or unit, as well as devise regulations of the use of the building. All property owners of the building have the obligation to abide by the decisions or resolutions made by the council in its capacity, including those regarding issues such as CCTV installation in the common areas of the building. If the council is unable to reach a consensus, while the property owners claim that their interests are being compromised, the property owners can then seek resolution by making a civil law suit to the court.

## **Case 5:**

### **Complaint and investigation**

A citizen complained that the management of a construction site took the measure of requiring all workers to show their ID documents to the security guards before entering the site. But this measure was taken without prior approval of the workers. The complainant views the measure as a breach of the Personal Data Protection Act.

### **Conclusion**

No. 1 (1) of Article 4 of the Personal Data Protection Act defines personal data as *any information ... relating to an identified or identifiable natural person (“data subject”) ...* The Act applies to automatic or partially automatic processing of personal data as well as non-automatic processing of personal data stored or to be stored in manually operated databases.

The complainant claimed that the management of the construction site requires all workers to show their ID documents to the security guards before entering the site, without mentioning that the guards would take notes of the workers ID data, nor that the management had built up a database to process the workers ID data. Investigation by this Office so far has yielded no evidence of the security guards taking notes of the ID data of the workers accessing the site.

Judging by the provisions of No. 1 of Article 3 of the Personal Data Protection Act, and in view of the fact that the measure taken by the management of the site – requiring workers to show their ID documents before entering the site – does not involve automatic or partially automatic processing of personal data, nor does it entail non-automatic processing of personal data stored or to be stored in manually operated databases, it is obvious that the complained practice is not subject to the provisions of the Personal Data Protection Act, nor does it fall in the scope of this Office’s terms of reference.

## Law Implementation

### I. Supervising law implementation

In 2009, application personal data processing received by the Office included 359 notifications on personal data processing (55 of which concerned transfer of personal data outside Macao SAR and 304 notifications on other types of personal data processing), 25 applications for authorisation and 35 for opinions. Applicant institutions included government departments, financial and business enterprises, among others.

Fig. 11 – Types of applications for personal data processing

	Number of applications	%
Notifications	359	85.7
Requests for opinion	35	8.3
Requests for authorisation	25	6.0

	Number of notifications	%
Notifications on transfer of personal data outside Macao SAR	55	13.1
Notifications on other types of personal data processing	304	72.6

## 1. Opinions

In 2009, the Office received a total of 35 requests for opinions from public and private institutions, a quantity as many as that received in 2008. Together with the 5 applications left over from 2008, the Office needed to process 40 such applications in 2009, 32 of which were concluded.

Of the 35 requests for opinion in 2009, 25 were from government agencies, 10 from private institutions or organisations. 27 (77.1%) of those requests involved issues of appropriateness or legitimacy in personal data processing.

Fig. 12 – Growth in requests for opinion

Year	2007	2008	2009
Number of requests	27	35	35

## 2. Authorisations

Of the 25 applications for authorisation received in 2009, all concerned personal data combination, and they amounted to a dramatic drop from the 152 requests received in 2008, mainly due to the fact that the work of requiring government agencies to apply for their personal data combination had been completed largely in 2008.

Taking into account the 117 applications carried over from 2008, the Office had 142 applications to process in 2009, of which 38 were concluded and for which 8 authorisations were issued. Some of the concluded applications proved not to involve personal data combination and as such did not call for authorisation.

Fig. 13 – Growth in authorization applications

Year	2007	2008	2009
Number of applications	15	152	25

### 3. Notification of personal data processing

In 2009, the Office received a total of 359 notifications of personal data processing from public and private institutions (including 55 for transfer of personal data outside Macao SAR and 304 for other types of personal data processing), which, in comparison with those in 2008, amounted to a rise of 66.2%. Taken with the 62 applications carried over from 2008, the Office had 421 personal data processing notifications to handle in 2009, of which 134 were concluded.

Of the 55 data transfer notifications received in 2009, 16 were from public institutions, and 39 from private ones. As to notifications regarding other types of personal data processing, 238 were from public institutions and 65 from private ones, and 1 from an individual.

Fig. 14 – Growth in notifications of personal data processing

Year	2007	2008	2009
Number of notifications	68	216	359

## **II. Coordination law implementation**

### **1. Registration of personal data processing**

Pursuant to Article 21 of the *Personal Data Protection Act* and with the approval of the Chief Executive, the Office set out in 2009 to register batch-by-batch those public services that perform personal data processing. To facilitate the advancement of the registration process, the Office held a total of 5 presentations sessions for this purpose in 2009, catering to departments under the Secretariat for Economy and Finance, Secretariat for Social Affairs and Culture and Secretariat for Transport and Public Works, as well as departments in security area, independent institutions, bodies of the legislature and the judiciary, with a total of 262 department chiefs and officials in charge of the related work attending from 61 departments or agencies. In addition to that were working sessions the Office had separately with 12 departments.

### **2. Translation of EU documents for reference**

As the *Personal Data Protection Act* has its legal origin in the same family of laws of Europe, and that obviously the EU has a lot for us to refer to, the Office continued its work in 2009 to translate some of the EU's important legal documents into Chinese, to build the community's source of legal reference.

The documents translated included a series of opinions and recommendations by Article 29 Data Protection Working Party of the EU, concerning children's data protection, online social networking, data protection issues in search engine services and data protection laws concerning the media; all of the translations are available for reference for free at the Office's website.

### **3. Data protection regime construction**

Based on the community feedback on the use of fingerprint or hand geometry devices for checking attendance, the Office issued in 2008 a guideline *On Using Fingerprints/Hand Geometry Devices*, and on the basis of that, published two documents entitled *Issues Relating to Using Fingerprint/ Hand Geometry Devices to Check on Work Attendance* and *On Using Facial Identification Attendance Control Systems*, to enable people of all social sectors to effectively protect personal data with proper data processing policies devised in line with the guides.

Addressing the issues encountered by public services in delineating data storage timelines, the Office issued *Opinion on Setting Storage Timelines for Public Archives Involving Personal Data* in February 2009 to the institutions concerned, as a guide for them to set their data storage timelines in accordance with the law.

# Connection, Cooperation and Publicity

## I. International and regional connection

Personal data protection is by nature an international undertaking. For it to be more effective, national and regional Data Protection Authorities (DPAs) have been connecting one another and sharing their findings and work experiences, to enhance cooperation and publicize the data protection requirements of their legal regime. As always, this Office took part in several international forums and events in 2009, and thus connecting and interacting with the DPAs of the participating countries and regions.

### 1. Participation in Privacy Awareness Week 2009

At the invitation of the Office of the Privacy Commissioner for Personal Data (PCPD) of Hong Kong, the representatives of this Office attended the plenary Meeting of Data Protection Officers' Club on 5<sup>th</sup> May during the Privacy Awareness Week 2009, hosted 3-9 May 2009 by Asia Pacific Privacy Authorities (APPA). Coordinator Chan Hoi Fan gave a briefing at the meeting on the development of the Office's functions and operation, and outlined the points to be taken into account by Hong Kong businesses stationed in Macao in terms of personal data protection. Productive connection occurred between the representatives of this Office and those of the PCPD and the Data Protection Officers' Club. By way of the event, the Office launched its introduction of Macao's legal regime pertaining to personal data protection to Hong Kong's business community, enhancing their awareness and willingness of abiding by Macao's Personal Data Protection Act when conducting business or undertaking personal data processing in Macao.

### 2. Participation in the 31<sup>st</sup> APPA

On 11 June 2009, Coordinator Chan Hoi Fan headed a delegation to attend the 31<sup>st</sup> Asia Pacific Privacy Authorities (APPA) Forum as observers in Hong Kong, at which the representatives of Portuguese National Data Protection Commission were also present as observers. In the forum's closed-door meetings, the parties discussed the various jurisdiction reports, and shared opinions and experiences on various data protection issues. The representatives of this Office briefed the participants on Macao's new endeavours in personal data protection, especially regarding the phasing-in of the registration mechanism of government departments' personal data processing. A briefing was also given on the Office's practice and views on hot issues such as personal data protection issues involved in employee surveillance, personal data protection audit or assessment undertaken by private institutions, and approaches to complaint processing, among other issues.

The meeting also deliberated on issues such as breach notification, the reform in

Hong Kong's privacy law and the new trends in Asia-Pacific Economic Cooperation (APEC). Open forum talks were offered by specialists from Hong Kong on systems of electronic health data sharing and their application. The representatives of the Office learned a great deal from other participants' experiences, opinions and recommendations, as well as the most recent trends in various regions, which would be used as good reference when assessing developments in personal data protection in Macao and the Office's future work.

### **3. Participation in the 31<sup>st</sup> International Conference of Data Protection and Privacy Commissioners**

The delegation of the Office attended the 31<sup>st</sup> International Conference of Data Protection and Privacy Commissioners themed on *Privacy: Today is Tomorrow*, as observers, in Madrid, Spain on 4-6 November 2009. One of the major documents of the conference adopted by the DPAs of some fifty participating countries and regions was *Madrid Resolution – International Standards on the Protection of Personal Data and Privacy*.

The Madrid Resolution sets some of the basic international data protection standards, including various principles and rights, which are intended to serve as a basis on which to reach broader international consensus, as well as a frame of reference for those multinational conglomerates as well as countries and regions which have not yet built their data protection regimes. The adoption of the resolution marked the important milestone in the advancement of international data protection, which will have a lasting influence on the development of data protection regimes around the world.

The conference enabled the Office to further understand how important it is to strike a balance between maintaining public security and personal data protection, and to have a better vision of the new difficulties and challenges brought about by such phenomena as technological development and cross-border transfer of personal data, as well as of the increasingly challenging requirements on DPAs. The Office attaches great importance to the Madrid Resolution, as it requires member DPAs to relate the document's content as well as the importance of formulating international data protection standards to the people and institutions in their respective jurisdictions. Though this Office currently attends the conference only as an observer, we nonetheless plan to do our share in publicising the data protection standards to Macao citizens, and will make the publicity work one of our priorities in our future work.

## II. Community relations

Apart from our global engagement, this Office also kept up its attempt to stay in touch with all sectors of the community, to keep the people informed of the Personal Data Protection Act, in support and promotion to the advancement in personal data protection.

Government departments and business enterprises have shown their endorsement and support for personal data protection by paying visits to the Office to share their concerns and experiences.

Director Jeong Pou Yee of the Macao Preparation Office for the Shanghai World Expo and staff made a visit to this Office on 24 March and listen to our explanation of the mechanism of registration of personal data processing operations.

Director Wong Fong Tak of Jiyu Service Center and staff came to the Office on 31 July for our presentation and recommendations regarding some work pursuant to the *Personal Data Protection Act*.

Assistant General Manager Lao Chak Kuong of Macau Branch, Bank of China, and his staff visited this Office on 6 October to share their support for the work of this Office and shared their views on some of the specific issues of personal data protection. Apart from that, the two sides reached an initial consensus regarding the arrangement for this Office to hold presentations on the *Personal Data Protection Act* to the staff of the bank to further enhance their law awareness.

Meanwhile, the Office continued to take initiative in connecting the various sectors of the community.

At the invitation of the Committee for the Registry of Auditors & Accountants, Coordinator Chan Hoi Fan and her staff attended its evening party on 10 July, during which a presentation on the *Personal Data Protection Act* was made in reference to the circumstances of the profession, followed by a Q&A session regarding specific cases. Tips and experiences in personal data protection were shared in a congenial setting.

On 7 December, Coordinator Chan Hoi Fan and her staff made a visit to the Monetary Authority of Macao, and were warmly received. The two parties had a work session for sharing views on issues of personal data protection in the financial sector; they agreed on an arrangement of future cooperation and promotion of personal data protection in the financial sector.

### III. Publicity and promotion

In 2009 the Office continued its work on publicity and promotion as always, which included several seminars, conferences and talks. Work along the same line was also conducted through the media such as TV, radio and newspapers, publications and annual reports, and awareness items, in order for the *Personal Data Protection Act* to be widely known and understood by all circles of the community, in the hope of enhancing people's awareness of the need for personal data protection.

#### 1. Seminars on the PDPA

On the basis of the 22 seminars on the *Personal Data Protection Act* made in 2008, the Office continued to hold seminars on PDPA with government departments and private institutions, in order to deepen their understanding of the work and effectively ensuring data protection in their work. In 2009, this Office held 23 seminars with 9 institutions respectively, to a total of 1169 participants. Some of the presentations were made to targeted trades and professions including the auditors and accountants, the media, and *inter alia*, the police. In those seminars, the Office took care to make the presentations in different approaches, addressing the special circumstances and needs of a specific trade in point, in a way that is conducive to understanding the law and relevant to the audience's work. As such the seminars were well regarded and appreciated.

Fig. 15: Seminars on the *Personal Data Protection Act*

Year	2008	2009
Number of participants	1339	1169
Number of seminars	22	23

#### 2. Conferences and seminars

##### 1) Conference entitled *Data Breach: Problems and Solutions*

In order to share expertise between DPAs and academics, the Office hosted a conference in conjunction with the Legal and Judicial Training Centre on the theme of *Data Breach: Problems and Solutions*, at the Macao Cultural Centre on 13 June 2009.

Present at the conference were Ms. Florinda Chan, Secretary for Administration and Justice; Professor Zhou Hanhua from the Institute of Law, Chinese Academy of Social Sciences; President Luís Silveira of the Portuguese National Data Protection Commission; Director Ma Ya-ou, representative of the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic Of China in the Macao SAR; the Privacy Commissioner for Personal Data Mr. Roderick B. Woo; the Privacy Commissioner of Australia, Ms. Karen Curtis; the Privacy Commissioner of Canada, Ms. Jennifer Stoddart; the Privacy Commissioner of Victoria, Australia, Ms. Helen Versey; the Privacy Commissioner of New Zealand, Ms. Marie Shroff and the

representative of the Korea Information Security Agency, Mr. Park. Secretary Florinda Chan delivered the opening speech.

The conference was conducted in two parts: the first was themed on *Status of Personal Data Protection*, with Coordinator Chan Hoi Fan of this Office as moderators. Speakers included Commissioner Karen Curtis, President Luís Silveira and Professor Zhou Hanhua. Commissioner Curtis presented some profiles of DPAs in the Asia Pacific regions in terms of organisational structure, President Silveira outlined the history and status quo of personal data protection in Portugal, while Prof. Zhou gave a description of the development in personal data protection in terms of its social awareness and legislature.

Part two was about data breach, with Director Manuel Trigo of the Legal and Judicial Training Centre as the moderator, and President Luís Silveira, Professor Zhou and Commissioner Woo as the speakers. President Luís Silveira described the ways in which data breach occurs in Europe and Portugal and how the problems are tackled; Professor Zhou focused on the law making process of Amendment VII to the Criminal Code of the People's Republic of China and its related articles, while Commissioner Woo referred to Hong Kong's experiences in dealing with data breach.

## **2) Conference: Protecting Your Customers' Data**

In order for businesses and banks in Macao to know better about personal data protection and the relevant safety standards in this regard, this Office hosted a conference on *Protecting Your Customers' Data* at the Macao World Trade Centre on 31 August 2009, in collaboration with the Judiciary Police and the Payment Card Industry Organisation.

The symposium was hosted by Coordinator Chan of this Office, the Director Kuok Chi Chong of Criminal Investigation Department and General Manager Sunny Cheong of Visa Hong Kong and Macao, attended by some one hundred participants from the hosting institutions, banks and businesses.

The conference featured talks on such themes as the *Legal Requirements for Personal Data Protection* by Yang Chongwei of this Office, on *Issues Involved in Payment Card Data Security* by Michael Chan of the Country Risk Management of Visa, on *Data Protection, Case Analysis and Relevant Laws* by Chief Chan Kin Hong of the Department for the Investigation of Gambling-related and Economics Crimes, and on *Prevention of Data Leakage: The Pending Risk in Your Business* by the representative of *Protiviti Hong Kong LTD*. Each speaker answered the questions from their audiences.

## **3) Seminar - Moving Ahead with the Times: Personal Data Protection in Mainland China and Portugal**

This Office hosted a seminar on *Moving Ahead with the Times: Personal Data*

*Protection in Mainland China and Portugal* at Auditório do Edifício da Administração Pública on 12 June 2009 in conjunction with the Legal and Judicial Training Centre.

Guest speakers included Professor Zhou Hanhua from the Institute of Law, Chinese Academy of Social Sciences; President Luís Silveira and Judge Carlos Lobo of the Portuguese National Data Protection Commission, with the opening speech delivered by Director Manuel Trigo of the Legal and Judicial Training Centre. Professor Zhou and President Luís Silveira gave presentations on data protection status in mainland China and Portugal respectively, while Judge Lobo explained the registration system for personal data processing in Portugal.

### **3. Publicity and promotion**

#### **1) *Public Servants Rejoice With You***

This Office took part in the event *Public Servants Rejoice With You* at Tap Seac Square on 24 October. We prepared stalls with games for people to play, and disseminated information about personal data protection by playing casual Q&A games.

#### **2) *IT Week 2009***

This Office took part in the IT Week 2009 held at the Macau Tower 27-29 November. While it was the first time this Office has been a party to this event, the Office made use of the opportunity to inform the citizens of the legal know-how of personal data protection and prevention of computer crime, in a featured activity entitled *Making Good Use of IT In Data Protection and Preventing Computer Crime*, in collaboration with the Judiciary Police.

### **4. Publicity through media**

#### **1) *Privacy & You***

In December 2008, the Office initiated a column entitled *Privacy & You* in the Macao Daily News and VaKio Daily, in which plain essays on Personal Data Protection Act were presented to the citizens to build their sense of privacy protection. The articles were well received. On that basis, the Office updated the column in June and December 2009, by presenting related cases, such as the *Vedio Surveillance*, *The Case of A Copy of Driving License*, *Household Closed-circuit Vedio Surveillance* and *The Necessity of Showing ID Documents When Entering A Construction Site*, to develop people's sense of privacy protection.

The Office translated those essays into Portuguese and plans to run them in

similar columns in local Portuguese newspapers in 2010.

## **2) Promotional video and audio clips**

The Office managed to produce 5 cartoon video clips themed on Personal Data Protection Act, the right to information, the right to access and correction, the right to objection and the consequences of illegal data processing. These clips were broadcast over the local TV and radio stations in March and July 2009 and are available on the Office's website and shown in activities hosted by the Office.

Apart from that, the Office produced 4 audio tapes on personal data protection, featuring issues that IT gives rise to and urging people to guard their personal data. These clips were presented complementing the IT Week 2009 and were broadcast over Radio Macau between November and December and are available for download at the Office's website.

## **5. Journals and leaflets**

### **1) *The GDPD Newsletter* (seasonal journal)**

The Office continued to publish its seasonal journal – *the GDPD Newsletter* – in 2009. However, in the interest of environmental health, the Office started in January 2009 to reduce the number of journals distributed by mail, and encouraged its use by online access.

### **2) *Annual Report 2008***

*Annual Report 2008* is the GDPD's second since its founding, which summarises the Office's operation in the realm of the law, including handling legal enquiries, case investigation, supervision and coordination in the implementation of the law, as well as system building. It also traces the Office's international engagements in the previous year, community relationship building and publicity and promotion. As per Article 25.5 of the *Personal Data Protection Act*, the report also makes public the opinions and exemption authorisations issued in 2008.

### **3) *Booklets of the Personal Data Protection Act***

In view of the regular need for hard copies of the *Personal Data Protection Act*, the Office produced in October 2009 a set of booklets of the Act in Chinese/Portuguese and English, and had them distributed to the audience of the Office's seminars on PDPA or made available to people at various places.

#### 4) Leaflets entitled *Utilize IT, Protect Personal Data, Combat Computer Crime*

To complement *IT Week 2009*, the Office produced the leaflets entitled *Utilize IT, Protect Personal Data, Combat Computer Crime*, in collaboration with the Judiciary Police. Apart from explaining the penalties prescribed by the Act, the booklet also gives a briefing on the status quo of cracking down on computer crime and related penalty stipulations.

#### 5) Publicity items

In order to promote awareness and knowledge of the *Personal Data Protection Act* in as many ways as practical, the Office prepared some publicity items in 2009 which mainly consisted of Christmas Cards and table calendar 2010. Also included were items such as note pads, double-colour ballpoint pens, document shields and mug cushions, in complementing the *IT Week 2009*, in collaboration with the Judiciary Police.

Table 1: Publicity items prepared by the GPDP

Items	Quantity
Desk calendars 2010	2,000
Christmas cards	600
Notepads	10,000
Double-colour ballpoint pens	10,000
Document shields	10,000
Mug cushions	10,000

#### IV. Website

The Office has kept updating its website in terms of content and design, to disseminate the most current news relating to personal data protection and make it an effective communication channel between the Office and the general public. According to statistics, there were more than 123,000 visits to the website in 2009, a 75.7% rise over the 70,000 in 2008.

Fig. 16: Growth in visits to the Office's website

Year	2007	2008	2009
Visits (in thousands)	19	70	123