

# 監警會 通訊

# IPCC NEWSLETTER

公眾對監警會認知度和  
職能認識顯著上升

**Significant Increase in  
Public Awareness  
of the IPCC  
and its Duties**



獨立監察警方處理投訴委員會  
Independent Police Complaints Council

本通訊網上版可在監警會網頁下載  
On-line version of this newsletter is available at  
[www.ipcc.gov.hk](http://www.ipcc.gov.hk)

**查詢 Enquiries**

電話 Tel : 2524 3841  
傳真 Fax : 2524 1801 / 2525 8042  
電郵 Email : [enq@ipcc.gov.hk](mailto:enq@ipcc.gov.hk)

**地址 Address**

香港灣仔港灣道26號華潤大廈10樓1006-10室  
Rooms 1006-10, 10/F, China Resources Building,  
No. 26 Harbour Road, Wan Chai, Hong Kong

封面故事 Cover Story p.2-4

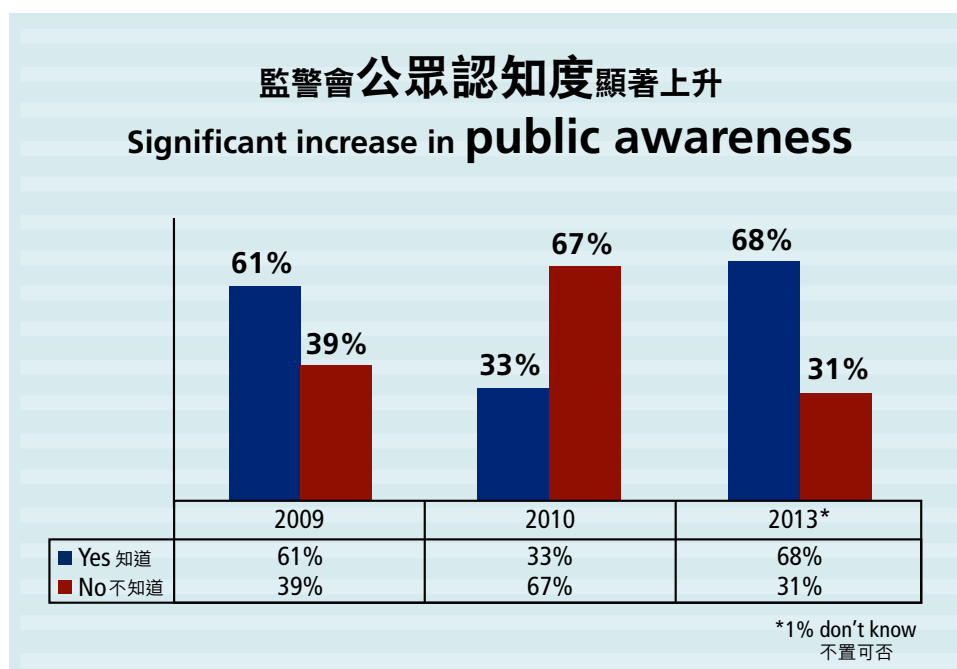
p.5-10 Recent Activities 最新動態

監警觀點 Viewpoint from IPCC p.11-12

p.13-15 Real Complaint Case 真實投訴個案

### 監警會發佈港大公眾意見調查報告 公眾對會方認知度和職能認識顯著上升

## The IPCC Releases HKU Public Opinion Survey *Significant Increase in Public Awareness of the Council and its Duties*



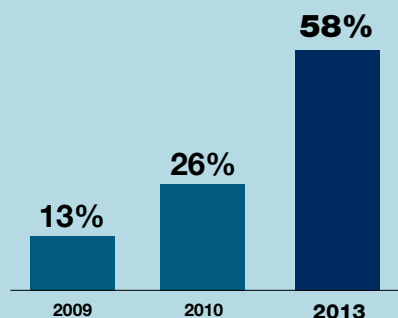
監警會在2013年3月特意委任香港大學民意研究計劃進行公眾意見調查，這次調查是監警會繼2009年3月(監警會成為法定機構前)及2010年3月後(監警會成為法定機構後)再次進行同類的調查，藉此了解公眾對監警會及其職能的認識，以及市民對兩層架構投訴警察制度和投訴警察相關議題的觀感。是次調查於2013年3月5日至3月12日期間，以隨機抽樣電話訪問的形式進行，並成功訪問了1,009位18歲或以上的香港居民。

隨著《監警會條例》在2009年6月1日生效，監警會正式成為獨立的法定機構。未成為法定機構前，監警會前身是成立於1994年的警監會。2009年的調查數字顯示，公眾對當時成立已有15年的警監會認知度為61%，但2010年的調查數字顯

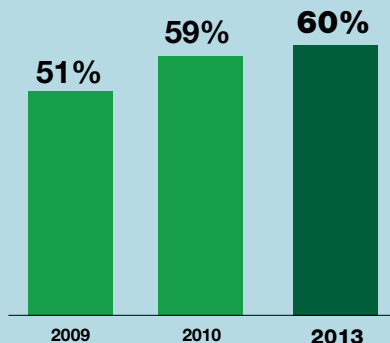
In March 2013, the IPCC commissioned the University of Hong Kong (HKU) Public Opinion Programme to conduct a public opinion survey, subsequent to those conducted in March 2009 and in March 2010 (before and after the Council became a statutory body). The aim of the survey was to assess general public awareness of the IPCC and its duties, as well as views on the two-tier police complaints system and related issues regarding police complaints. The survey was conducted by telephone interview on a random sample between 5 March and 12 March 2013. There were 1,009 successful interviews of Hong Kong residents age 18 or above.

When the IPCC Ordinance came into effect on 1 June 2009, the IPCC became a statutory body, following its establishment in 1994. Figures from the 2009 survey showed that public awareness of the Council, which had been in existence for 15 years, was 61%. However, results from the 2010 survey revealed that only 33% of the public were aware of the statutory body. In the past few

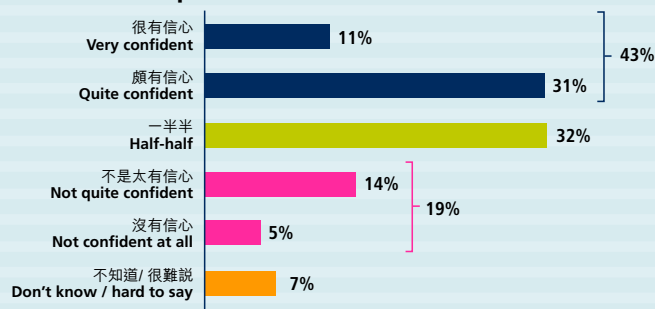
### 公眾對監警會的職能有更多的認識和了解 Greater public recognition and understanding of the duties of the IPCC



### 60%受訪者知道監警會為獨立於警察部門的機構 60% of respondents are aware that the IPCC is an organisation independent of the Police

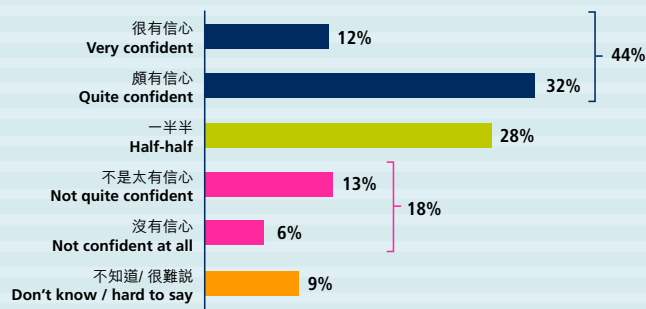


### 對監警會有信心佔整體受訪者的43% Overall 43% of respondents expressed confidence in IPCC



由於進位原因，百分率的總和可能與總數略有出入。  
Percentage shares may not add up to the total due to rounding.

### 接近45%受訪者對現時兩層架構的投訴警察制度有信心 Nearly 45% of respondents are confident in the two-tier police complaints system



由於進位原因，百分率的總和可能與總數略有出入。  
Percentage shares may not add up to the total due to rounding.

示，公眾對已成為法定機構的監警會認知度僅得33%。過去數年，會方透過積極與傳媒聯繫和各項宣傳活動，成功提升知名度，於2013年調查的公眾認知度高達68%，錄得明顯增幅。

縱使機構在警監會年代時知名度甚高，但公眾在當時卻不大了解其工作及職能。調查數據顯示在這方面監警會有明顯的改善。公眾對監警會的職能有更多的認識和了解，由2009年的13%及2010年的26%，大幅提升至2013年的58%。與此同時，調查顯示有60%有聽過監警會的受訪者知道監警會為獨立於警察部門的機構，較2009年的51%及2010年的59%，同樣錄得增幅。

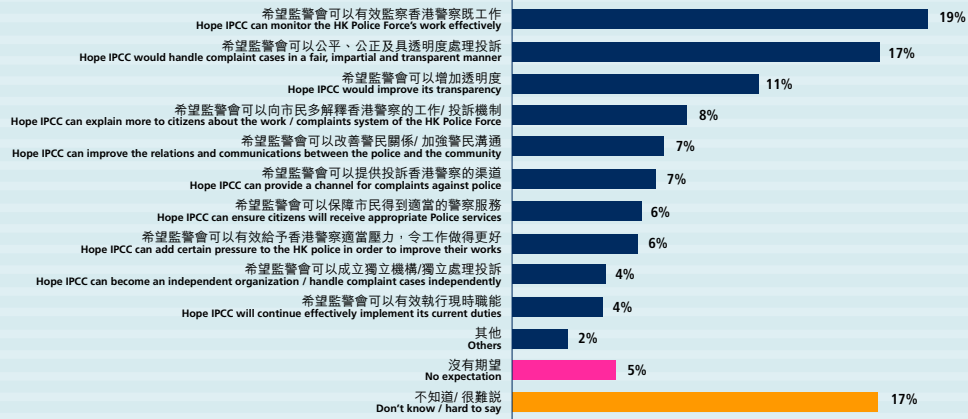
近年會方積極履行《監警會條例》第8條(1)(e)的職能，加強公眾對監警會角色的認識，並針對公眾對監警會職能存在誤解的問題，加強對外傳訊工作，包括將《監警會通訊》由半年刊轉為季刊、定期舉行新聞發佈會、出席公眾論壇、與不同的持份者會面、安排傳媒訪問、和傳媒合作撰寫文章、迅速回應傳媒查詢，以及與香港電台聯

years, through proactive media engagement and publicity activities, public awareness of the IPCC has surged to 68% with a significant increase.

Despite the fact that the Council was already well-known before becoming a statutory body, the public was not aware of the duties and functions of the IPCC. The survey results reflect major improvement in these areas. They show greater public recognition and understanding of the duties of the IPCC, from 13% in 2009 and 26% in 2010 to 58% in 2013, again a significant increase. At the same time, 60% of the respondents aware of the Council knew that the IPCC is an organisation independent of the Police, an increase from 51% in 2009 and 59% in 2010.

Recently the IPCC has been actively discharging its function under IPCC Ordinance S.8 (1)(e), in promoting public awareness of the role of the Council and improving publicity in order to eliminate public misunderstanding. This includes changing the *IPCC Newsletter* from a bi-annual publication to a quarterly one, conducting regular media briefings, participating in public forums, meeting with various stakeholders, arranging media interviews, collaborating with the media on feature articles, responding to media enquiries promptly, and co-producing the *IPCC Files*, a mini-TV series, with the RTHK. All these publicity efforts have brought rewarding results.

### 受訪者希望監警會可以有效監察香港警察的工作 Respondents hope the IPCC can monitor the HK Police Force effectively



合製作迷你電視劇集《監警有道》等，這些傳訊工作均獲得滿意的成果。

此外，2013年進行的民意調查，亦特別新增有關市民對監警會及兩層架構投訴警察制度的信心問題，43%及44%的受訪者對監警會及兩層架構的投訴警察制度有信心。

監警會成立至今踏入第4個年頭，機構仍有不少進步的空間。是次調查讓會方更了解市民的意見，聆聽大眾的建議，並且繼續提升效率，利用更多不同的渠道加強公眾對監警會角色的認識，確保香港的投訴警察制度公平、有效率和具透明度。

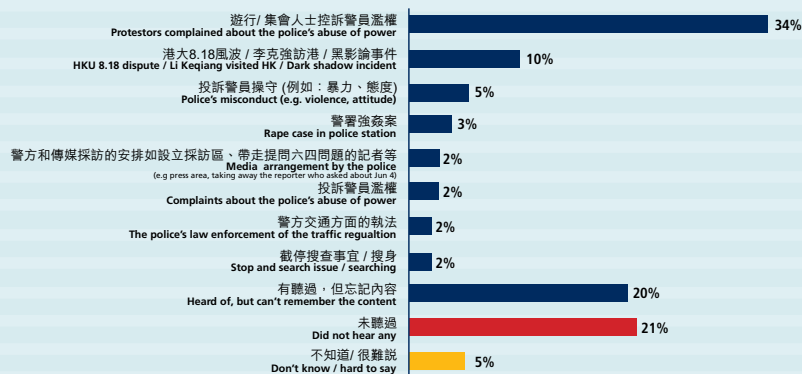
展望將來，監警會將繼續增加公眾對監警會的認識，以及繼續定期和公眾、各持份者、關注團體及傳媒溝通，增加機構透明度，以增強公眾對監警會及兩層架構投訴警察制度的信心。

In addition, the 2013 public opinion survey introduced some new questions concerning public confidence in the IPCC and the two-tier police complaints system; 43% and 44% of the respondents expressed confidence in the IPCC and the two-tier complaints system, respectively.

This is the fourth year since the IPCC became a statutory body, and there is still room for improvement. The HKU survey allows the IPCC to better understand the views of the public and to solicit their suggestions. It also helps to improve efficiency by help identifying different channels to enhance public understanding of the IPCC, and to ensure the police complaints system of Hong Kong is fair, effective and transparent.

Looking to the future, the IPCC will strive to enhance public awareness and continue to regularly engage with the public, stakeholders, civilian concerned groups and the media, and to increase the transparency of the Council in order to enhance public confidence in the IPCC and the two-tier police complaints system.

### 公眾最關注遊行/集會人士控訴警方濫權的新聞 News on the police's abuse of power during protests received the most public attention



### 監警會在2013年2月至2013年5月的活動

### IPCC's recent activities from February to May 2013

# 7

2月 FEB

#### 第八期「監警會通訊」傳媒發佈會

#### Release of the IPCC Newsletter Issue No. 8

監警會推出第八期「監警會通訊」並舉行新聞發佈會介紹通訊內容。在副秘書長梅達明先生陪同下，監警會宣傳及意見調查委員會主席鄭經翰先生向傳媒朋友講解監警會最新活動和通訊精華，包括發表李克強訪港而衍生的投訴個案審查最終報告、監警會2011/12工作報告、前副主席李國麟議員和剛榮休委員林志傑醫生的專訪等。此外，副秘書長梅達明先生詳細講述一宗投訴個案，彰顯監警會以仔細及客觀的方式審視投訴個案。



A media briefing was held to release the eighth issue of the *IPCC Newsletter*. Accompanied by Mr Daniel Mui (Deputy Secretary-General), Mr Albert Cheng (Chairman of the IPCC's Publicity and Survey Committee) presented the highlights of upcoming publicity initiatives and outlined the latest IPCC Newsletter, including the release of the final report on complaint cases arising from the visit by Mr Li Keqiang, IPCC Report 2011/12, and an interview with two recently retired Committee Members, Dr Hon Joseph Lee Kok-long (former Vice-Chairman) and Dr Lawrence Lam Chi-kit. Moreover, Mr Mui detailed a complaint case reflecting the IPCC's meticulous and objective approach in examining a complaint

# 19

2月 FEB

#### 監警會與投訴警察課會面交流

#### IPCC Meeting with CAPO

翟紹唐主席、陳培光醫生、馬恩國先生、葉成慶先生、劉玉娟女士、馬學嘉博士、黃幸怡女士、鄭承隆先生、杜國鏗先生、陳建強醫生、何世傑博士及陸貽信資深大律師，與投訴警察課代表會面交流。投訴警察課代表向委員講述有關使用胡椒噴霧、水馬、隨身攝錄機及拘捕行動等措施，增加委員對警方處理大型公眾活動的了解。

Mr Jat Sew-Tong (Chairman), Dr Chan Pui-kwong, Mr Lawrence Ma Yan-kwok, Mr Simon Ip Shing-hing, Ms Noline Lau Yuk-kuen, Dr Carol Ma Hok-ka, Miss Sandy Wong Hang-ye, Mr Edwin Cheng Shing-lung, Mr Clement Tao Kwok-lau, Dr Eugene Chan Kin-keung, Mr Dr Vincent Simon Ho and Mr Arthur Luk Yee-shun SC attended a meeting with representatives from CAPO. The CAPO representatives explained to the Committee Members the use of OC foam, water-filled barriers and body-worn video cameras, as well as the procedures in making an arrest. This heightened Committee Members' knowledge of the methods used by the Police in handling public order events.

# 最新動態

## Recent Activities

26  
2月 FEB



### 監警會與香港人權監察會面

### IPCC Meeting with Hong Kong Human Rights Monitor

為聆聽持份者對元旦遊行、街站安排，以及對警方處理大型公眾活動的意見，葉成慶先生、鄭承隆先生、杜國鑾先生、陳建強醫生及何世傑博士與香港人權監察代表會面交流。

Mr Simon Ip Shing-hing, Mr Edwin Cheng Shing-lung, Mr Clement Tao Kwok-lau, Dr Eugene Chan Kin-keung and Ir Dr Vincent Simon Ho met with representatives from the Hong Kong Human Rights Monitor to learn more about their views on the 1 January procession, the setting up of street stalls and how the Police handle public order events.

28  
2月 FEB



翟紹唐主席與  
警務處處長曾偉雄交流  
Mr Jat Sew-Tong  
(Chairman) attended a  
lunch meeting with Mr  
Andy Tsang Wai-hung,  
Commissioner of Police



### 與警隊高層聯繫

### Engaging with senior officials from the Police

翟紹唐主席、陳健波議員、方敏生女士、陳培光醫生、馬恩國先生、葉成慶先生、劉玉娟女士、馬學嘉博士、黃幸怡女士、葉振都先生、鄭承隆先生、鍾偉雄先生、杜國鑾先生、陳建強醫生、何世傑博士及陸貽信資深大律師與警務處處長等警隊高層午膳交流。

Mr Jat Sew-Tong (Chairman), Hon Chan Kin-por, Ms Christine Fang Meng-sang, Dr Chan Pui-kwong, Mr Lawrence Ma Yan-kwok, Mr Simon Ip Shing-hing, Ms Noeline Lau Yuk-kuen, Dr Carol Ma Hok-ka, Miss Sandy Wong Hang-ye, Mr Adrian Yip Chun-to, Mr Edwin Cheng Shing-lung, Mr Gerard Chung Wai-hung, Mr Clement Tao Kwok-lau, Dr Eugene Chan Kin-keung, Ir Dr Vincent Simon Ho and Mr Arthur Luk Yee-shun SC attended a lunch meeting with Commissioner of Police and other officials.



# 最新動態

## Recent Activities

# 4

3月 MAR



### 監警會與民間人權陣線會面

### IPCC Meeting with Civil Human Rights Front

張達明先生、葉成慶先生、劉玉娟女士及鄭承隆先生與民間人權陣線代表會面，聆聽他們對警方處理元旦遊行的意見。民間人權陣線代表向委員提出多項建議，包括警方限制街站、使用聲波炮，及使用隨身微型攝錄機等議題的意見。監警會會再作內部討論和跟進。

Mr Eric Cheung Tat-ming, Mr Simon Ip Shing-hing, Ms Noeline Lau Yuk-kuen and Mr Edwin Cheng Shing-lung met with representatives from the Civil Human Rights Front (CHRF) to understand their views on police arrangements during the 1 January procession. The representatives from CHRF expressed their opinions on a number of issues, including police restrictions on setting up street stalls and the use of long range acoustic device as well as body-worn video cameras. The IPCC will discuss these issues internally and will follow-up.

# 18

3月 MAR

### 監警會與職業司機團體會面

### IPCC Meeting with professional drivers groups



方敏生女士、馬恩國先生、葉成慶先生、劉玉娟女士、葉振都先生、鍾偉雄先生、杜國鑾先生、何世傑博士與職業司機團體代表會面，以聆聽職業司機對交通警執法的意見。出席會面的團體代表包括香港交通運輸業職工聯合會、新世界第一巴士職工會、混凝土業職工會、混凝土車司機協會、運輸及物流業職工會及香港泥頭車司機協會。

Ms Christine Fang Meng-sang, Mr Lawrence Ma Yan-wook, Mr Simon Ip Shing-hing, Ms Noeline Lau Yuk-kuen, Mr Adrian Yip Chun-to, Mr Gerard Chung Wai-hung, Mr Clement Tao Kwok-lau, and Mr Dr Vincent Simon Ho met with representatives from professional drivers groups in order to obtain their opinions on the way traffic police enforce the law. Attending the meeting were representatives from the Federation of Hong Kong Transport Worker Organizations, the New World First Bus Company Staff Union, the Concrete Industry Workers Union, the Mixer Truck Drivers Association, the Transport and Logistics Workers Union and the Hong Kong Dumper Truck Drivers Association.



# 最新動態

## Recent Activities

# 8

4月 APR

### 與澳洲大學教授會面

#### Meeting with Australian Professor



監警會與澳洲警政與安全卓越研究中心首席調查主任及澳洲昆士蘭格里菲斯大學犯罪學和刑事司法學院教授Tim Prenzler 先生會面，簡述監警會的角色及職能，雙方並就香港及澳洲兩地警察的執法情況作出交流。

The IPCC had a meeting with Professor Tim Prenzler, Chief Investigator of the Australian Research Council Centre of Excellence in Policing and Security (CEPS) and Professor of the School of Criminology and Criminal Justice at Griffith University, Queensland, Australia. The IPCC provided him an introduction of its roles and functions, and exchanged views with Mr Prenzler on how the Police enforce their duties in Hong Kong and Australia.

# 18

4月 APR



### 香港大學公開講學

#### Public Lecture at the University of Hong Kong

翟紹唐主席應邀出席由香港大學法律學院比較法與公法研究中心、公民社會與治理研究中心及政治與公共行政學系合辦的公開講學，演講題目是「香港公眾紛爭調解：實踐筆記」。

Mr Jat Sew-Tong (Chairman) was invited to speak in a public lecture held by the Centre for Comparative and Public Law, the Centre for Civil Society and Governance and the Department of Government and Public Administration of the Faculty of Law at the University of Hong Kong. The topic of this public lecture is "Public Dispute Resolution in Hong Kong: A Practitioner's Note".





# 最新動態

## Recent Activities

19  
4月 APR



### 參與服務質素監察部運動會

#### Take part in Service Quality Wing Sports Day

石禮謙議員、張達明先生和監警會秘書處職員一同參與警方服務質素監察部運動會。

Hon Abraham Shek Lai-him, Mr Eric Cheung Tat-ming and IPCC Secretariat staff took part in the Sports Day of the Police Service Quality Wing.



30  
4月 APR

### 監警會和 投訴警察課 聯席會議

#### Joint IPCC and CAPO Open Meeting

是次公開會議上，監警會繼續向警方跟進大型公眾活動相關事宜及個案審核衍生的服務改善安排。

During this open meeting, the IPCC has continuously followed up with the Police on arrangements related to public order events and ways of service improvement arising from case examination.



監警會致送紀念品予榮休警務處監管處處長鄧厚光先生。  
Souvenir was presented to Mr Tang How-kong, Director of Management Services, Hong Kong Police Force

# 最新動態

## Recent Activities

13-16  
5月 MAY

### 為天津及北京 公安局代表安排培訓

### Arranging attachment programme to Representatives from Public Security Bureau of the Tianjin and Beijing Municipality



監警會為天津市公安局沙漠先生及北京市公安局劉葉子女士安排了一周的培訓，他們在監警會期間，了解監警會的角色及審核小組的工作，並參與監警會的個案討論會議，以及到訪投訴警察課。

The IPCC has arranged a one-week attachment programme for Mr Sha Mo of Public Security Bureau of the Tianjin Municipality, and Ms Liu Yezi of Public Security Bureau of the Beijing Municipality. During their stay with the IPCC, the representatives learned more about the role of the IPCC and the works of the vetting team, as well as attended the IPCC's case conference. They also paid a visit to CAPO.

20  
5月 MAY

### 出席投訴警察課品質管理認證頒獎禮

### Attending the CAPO ISO certificate presentation ceremony



張達明先生、陳培光醫生、馬恩國先生、鄭承隆先生以及秘書處職員，應邀出席投訴警察課品質管理ISO 10002:2004認證頒獎禮，支持警隊繼續改善服務質素。

Mr Eric Cheung Tat-ming, Dr Chan Pui-kwong, Mr Lawrence Ma Yan-kwok, Mr Edwin Cheng Shing-lung and Secretariat staff were invited to attend the CAPO ISO 10002:2004 certificate presentation ceremony, to support the Police Force's service quality improvement.

## 主席及秘書長傳媒訪問

### Media Interviews with Chairman and Secretary-General



翟紹唐主席於4月至5月期間接受了南華早報、明報、信報及AM730的訪問，並出席鳳凰衛視節目《時事大破解》，介紹監警會及其工作。

秘書長朱敏健先生亦接受傳媒訪問，包括與立法會保安事務委員會委員何秀蘭出席有線電視節目《周日不講理》，以及NOW電視節目《時事全方位》，討論警權及警方處理示威者等相關議題。

From April to May, Mr Jat Sew-Tong (Chairman) was interviewed by South China Morning Post, Ming Pao, Hong Kong Economic Journal and AM730, he also participated in a TV programme, "News Decoder" of Phoenix TV, to introduce the IPCC and its duties.

Mr Ricky Chu (Secretary-General) was also invited to be the guest for TV programme "Sunday Whiz" of Cable TV, together with Ms Hon Cyd HO Sau-lan, member of Panel on Security. Mr Ricky Chu also attended the "News Magazine" of NOW TV, to discuss issues related to the police's power and handling of protestors.



### 集結各地調查經驗 學以致用 迎接挑戰

## Applying knowledge and experience from different fields to new challenges

在一個黃昏，我下班後前往一條山徑跑步，途中被兩名年青的軍裝警員截停。其中一名警員向我發問一連串的問題，並要求查看我的身份證明文件。當時我感到非常唐突、又十分氣憤，覺得他們不但妨礙我跑步，而他們的要求對我這個斯文人是一種侮辱。當時另一名警員察覺我神色不悅，連忙向我解釋，他們正在調查近期在附近出沒，且騷擾跑步人士的逾期居留者。在我了解事情背景後，便樂意出示我的身份證以配合他們的工作，然後向他們說聲再見，沒有表露我任職監警會的身份。



這事件反映警民間清晰溝通的重要性，否則便容易衍生投訴。監警會是法定機構，監察投訴警察課處理須匯報投訴，務求每宗個案均以獨立、公正的精神處理，我亦有幸參與這個重要的過程。事實上，我的閱歷正好助我迎接監警會工作帶來的挑戰。

我先後在香港及悉尼的不同執法機構工作，包括新南威爾斯省的警隊及香港、悉尼兩地的反貪機構。在加入監警會工作之前，我是香港廉政公署的總調查主任，有廣泛的行政及調查經驗。至於學歷方面，我在香港、澳洲及英國的大學取得不同專業範疇包括英語、法律、仲裁與調停以及工商管理的認可資歷。

One mellow evening after work, I went out for a run on a solitary path in the mountains. At the entrance to the path, I was stopped by two young uniformed police officers. One of them eagerly asked me a number of personal questions and demanded to see my identification. I was quite annoyed with this impertinent young officer. Not only was he interrupting my evening exercise, he was disturbing my pleasant mood. The other police officer noticed my disapproving expression and explained apologetically that they were checking on some over-stayers who had been disturbing the evening runners in the area. With a better understanding of their actions, I willingly presented what they wanted and bade them goodbye without revealing to them that I worked for the Independent Police Complaints Council (IPCC).

This experience demonstrates the importance of clear communication between police officers and the public, without which complaint cases may arise. This is when the IPCC comes in, to offer independent, impartial monitoring on the result of complaints against the Police conducted by the Complaints Against Police Office, and I am proud to be part of this process. In fact, my background has prepared me well for the challenges of working for the IPCC.

I have worked for law enforcement agencies in Hong Kong and Sydney, including the New South Wales Police Services and the respective anti-corruption agencies in the two cities. I last worked in the Independent Commission Against Corruption in Hong Kong as a Chief Investigator and have extensive experience in administration and crime investigation. My academic attainment covers a variety of disciplines including English language, law, arbitration and mediation and business administration, conferred by universities in Hong Kong, Australia and the United Kingdom.

畢業後我先投身教育工作，其後轉而成為執法人員，並曾經獲得政府的嘉許，讚揚我卓越的工作表現。監警會的工作需要面對不同領域的人士和投訴個案，以往的執法經驗對我勝任這份工作帶來莫大幫助。因此，我有信心能夠應付監警會工作的各項挑戰，為監警會作出貢獻。

我很榮幸成為監警會的職員，並將致力協助監警會維持一個公平、有效及具透明度的投訴警察制度。

作者：監警會署理助理秘書長蘇幹明先生

Starting my career as a school teacher, I successfully changed to work my way to become a law enforcement officer and had once received a commendation from the Hong Kong Government in recognition of my outstanding performance. Since the work of the IPCC requires facing a wide range of people and complaint situations, I believe that my solid background in law enforcement is a strong advantage. I am therefore confident that I can make a meaningful contribution to the ongoing work of our Council.

I am deeply honoured to be a staff member at the IPCC and am committed to assisting the Council in maintaining a fair, effective and transparent police complaints system.

Author: Mr Henry So,  
Acting Assistant Secretary-General, IPCC

## 監警會觀察員 IPCC Observers

### 新任命的監警會觀察員 Names of newly appointed IPCC Observers:

1. Dr Hon Joseph Lee Kok-long, S.B.S., J.P.
2. Professor Stephen CHEUNG Yan-leung, B.B.S., J.P.
3. Dr Lawrence LAM Chi-kit, B.B.S., J.P.
4. Mr KWONG Yun-Wah
5. Ms April YIU Wai-yee
6. Ms WONG Shu-ming
7. Ms CHAN Siu-kuen
8. Mr Alec HO Yat-wan

(任期由2013年4月1日至2015年3月31日 Appointment period from 1 April 2013 to 31 March 2015)

李國麟議員  
張仁良教授  
林志傑醫生  
鄺因華先生  
姚慧兒女士  
黃舒明女士  
陳少娟女士  
何逸雲先生

### 再獲任命的監警會觀察員 Names of re-appointed IPCC Observers:

1. Mr CHOW Kam-cheung
2. Mr YEUNG Yiu-chung, B.B.S., J.P.
3. Ms LIU Pui-shan

(任期由2013年4月1日至2015年3月31日 Appointment period from 1 April 2013 to 31 March 2015)

周錦祥先生  
楊耀忠先生  
廖佩珊女士

### 任期已屆滿的監警會觀察員 Names of retired IPCC Observers:

1. Mr Jimmy TSE Lai-leung, M.H.
2. Ir Edgar KWAN Chi-ping, J.P.
3. Ms Elaine HO Yee-lin
4. Mr Peter LAI Wai-cheung
5. Mrs Betty CHENG YUEN Pui-yan
6. Miss CHAU Sum

(任期於2013年3月31日屆滿 Terms of appointment ends on 31 March 2013)

謝禮良先生  
關治平工程師  
何綺蓮女士  
劉偉章先生  
鄭阮培恩女士  
周沁女士

### 以證據為基礎仔細審視投訴個案

### Meticulous Evidence Based Approach in Examining a Complaint Case

#### 個案重點 Highlights of the Case

	被投訴人 Complainee(s)	投訴警察課原來分類 Original Classification(s) by CAPO	最後分類 Final Classification(s)	
1	捏造證據 Fabrication of Evidence	一名高級警員 A Senior Police Constable	無法完全證明屬實 Not Fully Substantiated	獲證明屬實 Substantiated
2	疏忽職守 Neglect of Duty		未經舉報但證明屬實 Substantiated Other Than Reported	無(指控刪除) Nil (Allegation Deleted)

此個案反映監警會在面對「捏造證據」這等嚴重指控時，如何以證據為基礎作出仔細審視。經監警會查詢後，指控分類改為「獲證明屬實」。此個案是一個突出的例子，顯示出「無合理疑點」（用於刑事檢控），和「相對可能性衡量」（用於民事訴訟和紀律聆訊，以及投訴調查），兩種舉證標準的分別。

一名高級警員拘捕投訴人在火葬場「盜竊」，並為他錄取警誡供詞。及後投訴人投訴該名高級警員，指控包括該名高級警員涉嫌捏造警誡供詞的內容。據投訴警察課的調查證實，該名高級警員曾修改警誡供詞，但科學鑑證未能確定修改是否在投訴人簽署警誡供詞後才加上。徵詢法律意見後，警方認為無法證實個案無合理疑點，所以決定不起訴該名高級警員。投訴警察課認為當時的證據可靠，但未足以確鑿證實指控，故把「捏造證據」指控分類為「無法完全證明屬實」。監警會卻認為依據「相對可能性衡量」舉證標準，現有的證據已足夠並具說服力，指控應分類為「獲證實屬實」。投訴警察課認同監警會的見解，而該名高級警員則需接受紀律覆核。

This case illustrates the meticulous evidence-based approach adopted by the IPCC in examining a serious allegation of “Fabrication of Evidence” which was eventually found to be “Substantiated” after IPCC queries. This case also serves as a striking example in demonstrating the difference between the two standards of proof, i.e. “beyond reasonable doubt” (used in criminal proceedings) and “balance of probability” (used in civil proceedings and disciplinary hearings as well as complaint investigations).

The complainant had been arrested for “Theft” in a crematorium by a Senior Police Constable, who took a cautioned statement from him. Subsequently, the complainant made a complaint against the Senior Police Constable, alleging, among other things, that the Senior Police Constable had fabricated the content of the cautioned statement. A CAPO investigation confirmed there had been alterations on the cautioned statement by the Senior Police Constable, but a subsequent forensic examination could not determine whether the alterations had been done after the complainant had signed the cautioned statement. Moreover, after seeking legal advice, the Senior Police Constable was not prosecuted because it was considered that the case could not be proved beyond reasonable doubt. CAPO, therefore, classified the “Fabrication of Evidence” allegation as “Not Fully Substantiated”, since it was considered that the available evidence was reliable but insufficient to conclusively prove the allegation. However, it is the IPCC’s view that, by applying the standard of proof of “on the balance of probability”, the available evidence was sufficient and cogent to prove the allegation, which should thus be classified as “Substantiated”. CAPO subscribed to the IPCC’s views and the Senior Police Constable was to be subject to a Disciplinary Review.

### 個案背景

在2010年，一名火葬場經理見到一些骨灰龕被損毀而報警。經調查後發現其中一個龕位內有物件遺失，案件被列為「盜竊」。從火葬場的閉路電視片段看到一名貌似投訴人的男子在案發時進入火葬場。其後一名高級警員就該「盜竊」案拘捕投訴人，並為投訴人錄取警誡供詞。案件交由分區調查隊跟進，而投訴人當日獲准保釋。警方在徵詢法律意見後，投訴人最後獲無條件釋放。

投訴人隨即向投訴警察課投訴，其中包括指控該名高級警員捏造其警誡供詞內容，在他不知情或未同意下於其供詞加入「偷嘢」，由否認控罪「我無嘢講，我淨係去過火葬場啫」，改為承認控罪「我無嘢講，我淨係去過火葬場偷嘢」。**[指控一：捏造證據]**

### 投訴警察課的調查

投訴警察課的調查顯示，投訴人和高級警員雙方均有在警誡供詞上簽署確認內容。可是，把「啫」字改為「偷嘢」兩字，這項修改旁邊並沒有投訴人的加簽。當投訴警察課查問時，高級警員堅持是在投訴人在場的情況下作出修改，只是忘記要求投訴人加簽而已。

投訴警察課其後把警誡供詞交給政府化驗師進行科學鑑證。鑑證結果為化驗師不能辨析「偷嘢」二字是否在投訴人簽署警誡供詞後才加上。投訴警察課遂尋求法律意見，以權衡證據是否足以就改動警誡供詞向該名高級警員提出刑事檢控。在諮詢法律意見後，認為未必可以在法庭上證明案件毫無疑點，所以決定不起訴該名高級警員。

根據法證報告和法律諮詢，投訴警察課認為有證據顯示該名高級警員捏造警誡供詞內容，但證據未夠充份。故投訴警察課建議把指控一分類

### Case Background

In 2010, a manager of a crematorium found some niches broken and made a report to the Police. After investigation, it was found that something inside one of the niches was missing. The case was then classified as "Theft". In addition, CCTV footage of the subject crematorium had captured a male who resembled the complainant entering the crematorium at the time of the offence. Later, a Senior Police Constable arrested the complainant for "Theft" and took a cautioned statement from him. The case was then referred to the district investigation team for follow-up and the complainant was released on police bail that same day. Eventually, the complainant was released unconditionally after the Police sought legal advice.

The complainant had lodged the instant complaint with CAPO, alleging among other things that the Senior Police Constable had fabricated the content of his cautioned statement by adding the words 「偷嘢」 (to steal) to the statement (which had changed his denial of guilt 「我無嘢講，我淨係去過火葬場啫」 (I have nothing to say, I only went to the crematorium) to an admission 「我無嘢講，我淨係去過火葬場偷嘢」 (I have nothing to say, I only went to the crematorium to steal) without his knowledge and consent. **[Allegation 1: Fabrication of Evidence]**

### CAPO's Investigation

CAPO's investigation revealed that both the complainant and the Senior Police Constable had signed on the cautioned statement to confirm its content. However, the Chinese characters 「偷嘢」 had been overwritten on the Chinese character 「啫」, and this alteration was not counter-signed by the complainant. When questioned by CAPO, the Senior Police Constable insisted that the alteration was made in the presence of the complainant, and that he had simply forgotten to ask the complainant to counter-sign.

CAPO then requested the Government Chemist to conduct a forensic examination on the cautioned statement. After examination, the Government Chemist could not determine whether the Chinese characters 「偷嘢」 had been written after the complainant had appended his signature to the cautioned statement. CAPO also sought legal advice regarding the weight of evidence for a criminal prosecution against the Senior Police Constable for his act of altering the statement. Subsequently, no charge was laid against the Senior Police Constable as it was considered that the prosecution might not be able to prove the case beyond reasonable doubt in court.

In light of the forensic report and the legal advice, CAPO considered that there was some, but not sufficient, evidence to prove that the

為「無法完全證明屬實」。

有關修改供詞後沒有要求投訴人加簽一事，投訴警察課認為該名高級警員違反了警察程序手冊的規定，因此加入一項「疏忽職守」的指控，並分類為「未經指控但證明屬實」。**[指控二：疏忽職守]**

### 監警會的觀察

經審視個案文件後，監警會意識到儘管：(a) 政府化驗師的報告不能確定警誡供詞內該項修改的時間；以及(b) 律政署因證據不是毫無疑點，而決定不對該名高級警察作刑事起訴。但就投訴調查而言，應以「相對可能性衡量」為舉證標準，因此仍然有足夠證據證明指控。監警會以民事標準，認為投訴警察課調查所得證據，即(i) 在高級警員的記事簿上，投訴人曾在需簽署的地方簽名，而涉事的詞語沒有投訴人的加簽，顯然是事後添加的；(ii) 該修改明顯把整句供詞的意思由否認轉為承認；(iii) 身為有經驗的警務人員，該名高級警員只獲疑犯在記事簿內記項末端簽署，而沒有要求在一項對刑事責任有重要影響的修改加簽；以及(iv) 經修改後，句子變得不合情理，句子前段「我無嘢講，」顯然與後半段「我淨係去過火葬場偷嘢」不協調——這足以證明警員不正當地修改投訴人的供詞，由否認控罪轉為承認的可能性很大。因此指控一應重新分類為「獲證明屬實」。

投訴警察課最終同意監警會的見解，並把指控一分類由「無法完全證明屬實」改為「獲證明屬實」。由於指控一已獲證明屬實，指控二則變得與指控一的結論矛盾，故投訴警察課刪除指控二。投訴警察課更建議對該名高級警員進行紀律覆核。

監警會通過這宗個案的調查結果。

Senior Police Constable had fabricated the content of the cautioned statement. CAPO thus proposed classifying Allegation 1 as “Not Fully Substantiated”.

Regarding the act of overwriting as well as the omission to secure the complainant’s counter-signature for the alteration, CAPO considered that the Senior Police Constable had contravened the relevant provisions in the Police Manual and thus registered a separate count of “Substantiated Other Than Report” allegation of “Neglect of Duty” against him. **[Allegation 2: Neglect of Duty]**

### IPCC’s Observation

Upon examining the case documentation, the IPCC was of the view that, notwithstanding that (a) the Government Chemist’s report was inconclusive as to when the alteration was made; and (b) the Department of Justice decided not to lay criminal charges against the Senior Police Constable because the case could not be proven “beyond reasonable doubt”, there remained sufficient evidence to prove the allegation in the context of a complaint investigation as the correct standard of proof to be adopted should be “on the balance of probability”. Applying the civil standard, the IPCC considered that the available evidence revealed from CAPO’s investigation, i.e. (i) the material wording in the Senior Police Constable’s notebook, was clearly overwritten without countersigning by the complainant who had after all signed the relevant notebook entry; (ii) the fact that the alteration had clearly changed the meaning of the whole sentence from one of denial to one of admission; (iii) that the Senior Police Constable, as an experienced police officer, had only obtained the suspect’s signature at the end of the notebook entry but not the alteration which was so materially significant as far as criminal liability was concerned; and (iv) the sentence was awkward after the alteration as the first half of it 「我無嘢講，」(I have nothing to say) was obviously inconsistent with the second half 「我淨係去過火葬場偷嘢」(I only went to the crematorium to steal) — was more than sufficient to prove, on a preponderance of probability, that the Senior Police Constable had improperly altered the complainant’s cautioned statement from a denial to an admission. Hence, Allegation 1 should be re-classified as “Substantiated”.

CAPO eventually agreed with the IPCC’s view and re-classified Allegation 1 from “Not Fully Substantiated” to “Substantiated”. Since the registration of Allegation 2 would be contradictory to the rationale of the substantiation of Allegation 1, CAPO therefore deleted Allegation 2. CAPO also recommended initiating a Disciplinary Review against the Senior Police Constable.

The IPCC endorsed CAPO’s findings in this case.