



Press Release

IPCC To Discuss A Complaint Case Regarding Police's Handling of Enquiry on Cause of Death from Insurance Companies

The Independent Police Complaints Council (IPCC) discussed the captioned complaint case with the Complaints Against Police Office (CAPO) at the Joint IPCC/CAPO Meeting today.

Case Background

The complaint stemmed from a case of 'Person Fell From Height'. On the material day, the body of the Complainant (COM)'s elder brother (the Deceased) was found lying on the podium directly underneath the open living room window of his (the Deceased's) residential flat.

Upon COM's application for a waiver of autopsy on the Deceased, and having considered the relevant materials, the Coroner directed that no Death Report would be called for, and no investigation into the death of the Deceased was required. The Police concluded that the death of the Deceased was not suspicious, and curtailed the case. Accordingly, no statement was taken from COM and the Deceased's relatives. COM was informed of the investigation result by a Death Enquiry Constable (COMEE 2) of Formation X.

At the time of the Deceased's death, he was covered by a number of insurance policies. Two insurance companies subsequently sent letters to the Miscellaneous Enquiries Sub-unit (MESU) of Formation X enquiring the cause of death of the Deceased, particularly on whether suicide was involved. The letters of enquiry were handled by a Senior Inspector of the MESU of Formation X (COMEE 3). COMEE 3 replied to the insurance companies stating that '*the Deceased had called Mr A (employer of the Deceased) the day prior to his death expressing that he was unhappy due to job pressure*', and '*it was believed that the Deceased had ended his own life by jumping down from the building of his flat*'.

The two insurance companies then notified COM's mother that no compensation would be paid in respect of the Deceased's case since the cause of his death was suicide. A copy of COMEE 3's reply to these insurance companies was attached to the respective notification letters issued by the insurance companies to COM's mother. COM considered the decision of the insurance companies in not paying compensation was a result of the inaccurate information stated in COMEE 3's replies to the insurance companies, and thus lodged a complaint with CAPO.

Allegations

- (i) the Police had failed to interview and take statement from COM and the family members of the Deceased in the course of the investigation of the death of the Deceased [**Allegation (a) – ‘Police Procedures’**];
- (ii) COMEE 2 had failed to notify COM or his family members that the Coroner had directed that no investigation should be conducted into the death of the Deceased, and hence deprived them of their right to appeal against the decision of the Coroner and to have a full investigation into the death of the Deceased [**Allegation (b) – ‘Neglect of Duty (NOD)’**];
- (iii) COMEE 3 was negligent in stating in his letters to the insurance companies that *‘the Deceased had called Mr A one day prior to his death expressing that he was upset due to job pressure’* since Mr A had confirmed that he had not received the alleged telephone call from the Deceased, and hence the information quoted by COMEE 3 in his letters to the insurance companies was factually wrong [**Allegation (c) – ‘NOD’**]; and
- (iv) COMEE 3 should not have stated in his letters to the insurance companies that *‘the Deceased took his own life’* since there was no substantive evidence supporting that the Deceased had committed suicide [**Allegation (d) – ‘NOD’**].

CAPO’s Investigation

Regarding allegation (a), CAPO’s investigation found no suspicious circumstances were detected in the course of police investigation at the scene. Since the decision as to whether the Police should conduct an investigation into a death report is solely one for the Coroner if no suspicious circumstance is found associated with or arising from the death of a deceased, and the Coroner directed that no police investigation into the death of the Deceased was required in the instant case, CAPO considered that there was no negligence on the part of the Police for not taking statements from the properly interested persons in the investigation of the death of the Deceased. Therefore, CAPO classified allegation (a) – ‘Police Procedures’ as ‘No Fault’.

In response to allegation (b) – ‘NOD’, COMEE 2 stated that he had telephoned COM to inform COM that the case of the Deceased’s death would be closed since the Coroner had decided that no investigation into the death of the Deceased was required. CAPO’s investigation confirmed that COMEE 2 had recorded his action of informing the Deceased’s relative of the Coroner’s decision in the Death Investigation File, though COMEE 2 had not specified the time of his call as well as the name of the person he had contacted in the relevant file minutes. With the support of the record of the file minute in the Death Investigation File, and in the absence of other concrete evidence to prove or disprove the veracity of either side’s version, CAPO classified allegation (b) – ‘NOD’ as ‘Unsubstantiated’.

Concerning allegations (c) and (d), COMEE 3 explained that as he was not in the post at the material time and did not take part in the investigation of the death of the Deceased, he had to rely on the available information contained in the Death Investigation File in handling the enquiries on the cause of death of the Deceased from the insurance companies. Taking into account the facts revealed in the documents contained in the Death Investigation File, COMEE 3 formed the conclusion that the most possible cause of the Deceased's death was suicide, and thus stated in his replies to the two insurance companies that *'it was believed that the Deceased ended his own life by jumping down from the building of his flat'*, and also mentioned in these replies that *'the Deceased had called Mr A the day prior to his death expressing that he was unhappy due to job pressure'* based on a report made by a Police Constable (PC Y) to the Police Console on the material day as recorded in the relevant incident log of the '999' Console.

With regard to allegation (c) – 'NOD', upon CAPO's further enquiry, Mr A denied that the Deceased had expressed to him by telephone in the evening prior to the Deceased's death that he (the Deceased) was upset by work pressure. PC Y also flatly denied that he had made a report about the telephone contact in question between Mr A and the Deceased to the '999' Console on the material day as recorded in the relevant incident log of the Console. Since COM lodged the instant complaint to CAPO almost ten months after the incident, the relevant audio tape record of the '999' Console pertaining to the Deceased's death report ostensibly made by PC Y as recorded in the incident log had already been erased in accordance with normal practice. Therefore, CAPO was unable to verify the record of the incident log in question. However, CAPO considered that an incident log is a real time record of information that was reported to the Police in an incident, which is 'accurate' as long as it contains information exactly as it is reported regardless of its veracity. Taking into account the fact that there was no independent evidence to prove what actually transpired during the conversation between Mr A and the Deceased, that there was no reason to doubt the accuracy of the initial records contained in the incident log, and police officers are entitled to quote information from incident logs without further verification because these are 'routine records of events and non-events innocently made in the normal course of business', CAPO considered that COMEE 3 had no negligence in quoting the information from the incident log in his replies to the insurance companies, and hence classified allegation (c) – 'NOD' as 'No Fault'.

Regarding allegation (d) – 'NOD', CAPO found that despite the evidence available to COMEE 3 at the time when he compiled the replies to the insurance companies suggested that the Deceased was likely to have committed suicide, the possibility of an accidental fall from the window had never been ruled out. More importantly, no death inquest was held in respect of the Deceased's death, and the police enquiry had never concluded that it was a case of suicide even though it revealed no suspicious circumstances. In light of this, CAPO commented that while COMEE 3 felt that he was obliged to comment on the possibility of suicide upon the insurance companies' specific requests, he should have known that the Deceased's insurance policies were at stake and should have been more prudent in constructing his replies. He should have indicated clearly in his replies that it was his own judgement rather than an official conclusion. In view of the fact that the comment on the cause of death of the Deceased made by COMEE 3 in his replies to the insurance companies

was not fully accurate, CAPO classified allegation (d) – ‘NOD’ as ‘Not Fully Substantiated’, and advised that COMEE 3 would be advised without divisional record file entry to be more prudent in giving his comments when an individual’s interest is at stake.

IPCC’s Observations

Upon examining the investigation result of COM’s complaint, regarding allegation (a), the IPCC requested CAPO to further elaborate the police procedure in handling a case of ‘Person Fell From Height’, and explain under what circumstances would the Police take statements from related persons.

The IPCC also had reservation about the classifications for allegations (c) and (d) against COMEE 3, and also considered that CAPO had not properly addressed COMEE 2’s negligence disclosed in the course of CAPO’s investigation into allegation (b) – ‘NOD’.

- (i) the crux of allegation (c) – ‘NOD’ was that the information about *‘the Deceased expressing to Mr A that he was unhappy due to his own job pressure during a telephone conversation one day before his death’* as quoted in COMEE 3’s replies to the insurance companies was factually wrong, rather than challenging the reliability of the source of information that COMEE 3 relied on in quoting the information in question in his replies to the insurance companies;
- (ii) CAPO’s justification on the ‘No Fault’ classification for allegation (c) could only serve as an explanation for COMEE 3 to rely on the incident log in quoting the information in question, rather than any evidential proof of the veracity of such information. This explanation was not fully geared to the locus of COM’s allegation. Since both Mr A and PC Y had denied to have given the information in question contained in the incident log, the record of the incident log as an accurate and reliable evidence to prove that the Deceased had said the words in question to Mr A is cast in doubt. As CAPO also agreed that there was no independent evidence to prove what actually transpired during the alleged telephone conversation between Mr A and the Deceased, allegation (c) – ‘NOD’ became a typical one-against-one situation in the absence of objective evidence to prove or disprove the veracity of the information in question. The IPCC therefore considered it more appropriate to re-classify the allegation as ‘Unsubstantiated’, instead of ‘No Fault’;
- (iii) In accordance with Force Procedures Manual (FPM), COMEE 3 should have replied to the insurance companies with factual information only. However, COMEE 3 commented in his replies to the insurance companies that *‘...the deceased ended his own life by jumping down from the building of his flat...’* even when the fact was there was no official conclusion on the death of the Deceased, and the police enquiry had never concluded that the Deceased had committed suicide. It was

clear that COMEE 3's above comment was inappropriate and had breached the requirement set out in the FPM. Since COMEE 3's negligence in respect of allegation (d) – 'NOD' had been fully proven, the IPCC suggested CAPO to re-classify the allegation from 'Not Fully Substantiated' to 'Substantiated'; and

- (iv) for allegation (b) – 'NOD', CAPO's investigation revealed that COMEE 2 had only recorded his contact with the Deceased's relative, without specifying the date, time, and the particulars of the person he had contacted, in a minute sheet in the relevant Death Investigation File. The Secretariat considered that COMEE 2 had failed to make proper and detailed records of his action, and therefore suggested CAPO to properly address COMEE 2's negligence in this respect in the investigation report.

CAPO's Response

After discussion, CAPO clarified that there are no police orders, rules and guidelines or law governing the procedure for handling cases of 'Person Fell From Height'. The need for taking statements from relevant parties should be determined on a case-by-case basis. Under the relevant guidelines in the Force Procedures Manual, if any suspicious circumstances in connection with the death are found, the case will be referred to the crime unit for investigation and where necessary taking statements from the parties concerned. If not, it will be solely the Coroner's decision as to whether an investigation into a report of death should be conducted by the Police. In the instant case, as the Police had not found any suspicious circumstances and the Coroner directed no Death Report was required, CAPO believed that there is no negligence of the Police for not taking statements from the relevant parties and thus the classification of "No Fault" for allegation (a) remains appropriate.

CAPO also subscribed to the IPCC's comments and suggestions, and re-classified allegations (c) and (d) – 'NOD' as 'Unsubstantiated' and 'Substantiated' respectively. COMEE 3 would be advised to strictly observe the principle and guidelines on releasing information to insurance companies as stipulated in the relevant FPM when dealing with correspondence from insurance companies in future.

The negligence of COMEE 2 in compiling a proper and detailed record of his action, though not directly related to the allegations raised in the instant complaint, has also been addressed as an 'Outwith Matter' in line with established practice. COMEE 2 would be advised to improve his professionalism in this respect.

After considering CAPO's response to the IPCC's queries and suggestions, the Council endorsed the findings of CAPO's investigation report.

Independent Police Complaints Council
24 January 2008