



Press Release

IPCC TO DISCUSS A COMPLAINT CASE REGARDING POLICE'S HANDLING OF CASE EXHIBITS

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

On 29 October 2006, a meeting was held amongst residents and owners of Estate A to decide whether the Management Committee (MC) of the estate should be dissolved. In the event, the proposal was voted down. On 3 November, the complainant (COM), who was a resident in Estate A, made a report of 'Suspected Forgery' to the Police, claiming that some of the blank voting slips were counterfeits. However, the Police did not seized the voting slips and the stamp in question as exhibits for forensic examination until 9 and 22 November. The forensic examination result revealed no evidence in support of the case. The 'Suspected Forgery' case was formally classified as 'No Crime Detected' on 6 January 2007.

Allegations

COM lodged a complaint against the officer-in-charge (COMEE) of the 'Suspected Forgery' case as follows:

- (i) COMEE had ignored his request for seizing the owners' registers and delayed the seizure of the relevant voting slips as exhibits for examination [**Allegation (a) – 'Neglect of Duty'**];
- (ii) COMEE allegedly treated COM impolitely by saying “佢有權唔俾警方都得，燒晒，掉晒都無犯法，我地無權拉佢” [*He can refuse to give it to police... can burn it, throw it away and we cannot arrest them*] when he attended the Management Office of Estate A to seize the used voting slips as control samples on 22 November 2006 [**Allegation (b) – 'Impoliteness'**]; and
- (iii) COM further stated that on 4 January 2007, he received a notice issued by the MC to residents and owners of Estate A, informing them that the investigation of the 'Suspected Forgery' case was curtailed by the Police. However, COM did not receive any formal reply from COMEE until their teleconversation on 11 January. COM was dissatisfied with the way COMEE handled the matter

[Allegation (c) – ‘Neglect of Duty’].

CAPO’s Investigation

COMEE’s version is that although his team received COM’s report on 3 November 2006, he was out of office and did not resume duty until 6 November. He then arranged to interview the Chairman of the MC on 9 November and to seize the exhibits on the same day. Prior to the seizure, he instructed his staff to contact the representative of the Home Affairs Department (HAD) to ascertain whether the latter would be present during the opening of the ballot box but no reply was received. Moreover, COMEE learnt from the investigating officer of the case that the voting slips were safely kept in the Management Office and free from interference. As such, he did not take any seizure action until 9 November.

He denied having treated COM impolitely on 22 November but admitted that he had said the alleged remark during their encounter.

Upon receipt of the forensic examination result, COMEE classified the case as ‘No Crime Detected’ on 4 January 2007. When enquired by COM over the phone on 11 January, COMEE informed COM of the investigation result and then issued a letter to him on the same day, formally notifying him of the curtailment of the crime investigation.

The investigating officer of the ‘Suspected Forgery’ case was also enquired. He explained that on 3 November 2006, he received the report of COM and took a statement from him. He then proceeded on a few days’ leave and on 9 November, he was instructed by COMEE to contact the HAD representative but the attempts were to no avail.

The records in the case file confirmed that the ‘Suspected Forgery’ case was classified as ‘No Crime Detected’ by COMEE on 4 January 2007, a curtailment letter was issued by COMEE to COM on 11 January, and the relevant crime case file was formally closed on 23 January.

CAPO’s Views

For allegation (a) – ‘Neglect of Duty’, CAPO opined that it was not unreasonable for COMEE not to seize the exhibits until 9 November 2006 as he was satisfied that the voting slips, being securely stored in the Management Office, were free from interference. Moreover, he needed to undertake preparatory work, including to obtain a statement from the Chairman of the MC as well as to contact the HAD representative to ascertain her role in opening the ballot box.

For allegation (c) – ‘Neglect of Duty’, CAPO noticed that COM was duly informed by COMEE in writing prior to the closure of the relevant crime case file. CAPO did not find any impropriety on the part of COMEE in handling this matter.

Both allegations (a) and (c) were therefore classified as ‘No Fault’.

For allegation (b) – ‘Impoliteness’, as COMEE admitted having said the alleged remark which was considered unnecessary by CAPO and unpleasant to COM, it was classified as ‘Substantiated’, and COMEE would be advised.

CAPO’s investigation also revealed that the investigating officer of the ‘Suspected

Forgery' case had failed to document his attempts to contact the HAD representative. As for COMEE, he had also failed to discharge his supervisory duty to ensure that such a record was made in the crime case file. An 'Outwith' matter was therefore registered against both the investigating officer of the 'Suspected Forgery' case and COMEE, and they would be suitably advised.

IPCC's Observations

After examining the investigation report, IPCC did not object to the classification for allegation (b) – 'Impoliteness' but had reservation about the 'No Fault' classification for allegations (a) and (c) – 'Neglect of Duty'. The Council's observations are detailed as follows –

- (i) for allegation (a), according to the statement of the investigating officer of the 'Suspected Forgery' case, the interview with the Chairman of the MC was in progress at the time when COMEE attended the Management Office of Estate A to seize the problematic voting slips. Moreover, at the time when the seizure took place, COMEE was aware that the HAD representative still could not be reached. In other words, the interview with the Chairman of the MC and the view of the HAD representative were not prerequisites to the seizure action;
- (ii) as the voting slips in question were key exhibits without which the 'Suspected Forgery' case could not be furthered, IPCC considered COMEE should have been more vigilant in seizing them at the earliest opportunity so as to protect them from any inadvertent interference;
- (iii) for allegation (c), COM was dissatisfied that COMEE had disclosed to the MC, i.e. the suspect of his report, the investigation result of the 'Suspected Forgery' case prior to notifying him as the informant. In this connection, CAPO was requested to clarify whether COMEE did disclose to the MC the investigation result of the crime case concerned on 4 January 2007 as alleged, and if so, whether the arrangement was undesirable; and
- (iv) COMEE stated in the curtailment letter issued to COM on 11 January 2007 that the investigation of the case was curtailed on 9 January. This differed from the version COMEE allegedly disclosed to the MC. Further clarification by CAPO in this respect was requested.

CAPO's Response

On IPCC's observations, for allegation (a), CAPO remarked that whether a property is required as an exhibit and when it should be seized should be determined by the officer-in-charge of individual case. This notwithstanding, CAPO agreed that, in the instant case, COMEE should have initiated proactive measures to protect the essential exhibits of the 'Suspected Forgery' case and to ensure they were free from inadvertent interference. As such, allegation (a) was re-classified from 'No Fault' to 'Substantiated'. Despite COMEE's carelessness, the exhibits of the case had not been tampered with and the crime case investigation had not been impeded. COMEE would be advised to take into account the security of potential exhibits in considering any seizure action in future.

For allegation (c), the 'Suspected Forgery' case was classified as 'No Crime

Detected' by COMEE on 4 January 2007. The Chief Inspector of Police (CIP) of the Formation concerned approved the classification on 6 January. CAPO did not find any impropriety on the part of COMEE as long as the curtailment letter to COM was issued after the 'No Crime Detected' classification was formally approved by the CIP of the Formation concerned.

Upon further enquiry, COMEE stated that he had only informed the MC over the phone on 3 or 4 January 2007 that the forensic examination did not reveal any suspicious circumstances. Contrary to the version of the MC, COMEE denied having mentioned to them anything in relation to the curtailment of the investigation of the 'Suspected Forgery' case. However, in the absence of independent and corroborative evidence to prove that COMEE did pre-maturely disclose the investigation result of the crime case concerned to the MC prior to the CIP's approval of the 'No Crime Detected' classification, allegation (c) was re-classified from 'No Fault' to 'Unsubstantiated'.

CAPO further found that COMEE had mistakenly stated in the curtailment letter to COM of 11 January 2007 that the investigation case ceased on 9 January 2007. The issue was to be dealt with as an 'Outwith' matter and COMEE would be advised.

IPCC was satisfied with CAPO's response and endorsed the investigation report.

Independent Police Complaints Council
22 May 2008