

投訴警方獨立監察委員會

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INDEPENDENT POLICE COMPLAINTS COUNCIL

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Press Release

IPCC TO DISCUSS A COMPLAINT CASE REVEALING POLICE NEGLIGENCE IN INVESTIGATION & LAYING CHARGES

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

Case Background

On the material day, the complainant (COM) drove to Mr A's place and parked her car in the carpark of the building. Later she returned and found the offside front bumper of her car was dented. COM reported the case to the Police. At that time, COM was undecided whether or not to pursue the case. The scene handling officer then advised her to contact the investigation team within 10 days if she was to pursue the case.

Mr A viewed the relevant CCTV tape of the car park which showed a vehicle had closely passed COM's car several times. He noticed that the vehicle belonged to Mr B, a resident of the same building, and found a blue paint on the nearside rear corner of that vehicle which matched the color of COM's car. Mr A contacted Mr B who admitted that he had hit COM's car and agreed to make compensation. Mr B subsequently sent a letter to COM stating that he would pay the repair cost.

Two weeks after making the report, COM decided to pursue the case and contacted the Police. Mr B verbally admitted to his misdeed but had not reported to the Police. He also told the Police that he had already compensated COM for the repair cost. Mr B also faxed the mutual agreement with COM on making compensation to the officer-in-charge of the case. However, Mr B refused to provide a statement or paint sample of his vehicle to the Police.

Police investigation showed that the relevant CCTV tape did not capture the actual collision and no blue paint was found on Mr B's car since the vehicle had been waxed and cleaned.

The officer-in-charge considered the available evidence insufficient to lay any charge against Mr B. He issued an advisory letter to Mr B instead, without taking any prosecuting action against him.

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COM was dissatisfied with the handling of the case and lodged a complaint with CAPO against the officer-in-charge for ‘**Neglect of Duty**’.

CAPO’s Investigation

Upon receipt of the complaint, legal advice from the Department of Justice was sought which advised that there should be sufficient evidence to charge Mr B with one count of ‘careless driving’ and one count of ‘failure to report’. However, the charges had already been time-barred when the Police obtained the above legal advice.

CAPO believed that the officer-in-charge had taken into account all available evidence and relevant factors before deciding not to press any charges. His decision was impartial. CAPO added that the duty of an officer-in-charge is to make judgement to the best of his professional knowledge rather than to make a correct judgement. The decision may not be the best judgement but there was no negligence on the part of the officer-in-charge. Therefore, CAPO classified the allegation of ‘Neglect of Duty’ as ‘Unsubstantiated’.

IPCC’s Observation

IPCC could not agree to CAPO’s investigation results and comments. The Council took the view that the officer-in-charge had ignored all circumstantial evidence, including the CCTV tape, Mr B’s admission and his agreement to making compensation, and the photos provided by COM, which were strong prima facie evidence to support a charge against Mr B. It was inappropriate for him not to seek legal advice in this respect.

Although Mr B refused to provide a written statement, the officer-in-charge should have taken necessary action to locate him for further enquiry and statement taking.

CAPO’s Response

After several rounds of exchanges, CAPO agreed that, in the light of the strong prima facie evidence against Mr B, the officer-in-charge should have tried to locate Mr B for further enquiry and laid charges against him. As there existed a certain degree of negligence or oversight in the investigation of the traffic accident case, CAPO re-classified the allegation of ‘Neglect of Duty’ from ‘Unsubstantiated’ to ‘**Substantiated**’.

After IPCC’s endorsement of the findings, CAPO reviewed the internal action against the defaulting officer and upgraded it from ‘Advice’ to ‘**Disciplinary Action**’ to properly reflect the gravity of consequence arising from the negligence.

Independent Police Complaints Council
23 January 2009