

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 REGARDING DELAY IN REPORTING TRAFFIC OFFENCE WITNESSED BY POLICE OFFICER

The Independent Police Complaints Council (IPCC) discussed the captioned case with the Complaints Against Police Office (CAPO) at the Joint IPCC/CAPO Meeting today. The complaint revealed an 11-day delay in reporting a driver ‘driving whilst disqualified’ which was witnessed by a traffic police officer.

Case Background

The complainant (COM) was summonsed for ‘Careless Driving’ by a Police Sergeant (Sergeant A) who was attached to a Regional Traffic Formation. COM disputed the ticket and Sergeant A was called to testify for the prosecution in court on 23 September. COM was convicted of the offence on the same day, was fined \$2,000 and disqualified from driving for 15 days with immediate effect by the Magistrate.

While leaving the court that day, Sergeant A allegedly saw COM driving his own saloon car leaving the carpark of the Magistracy. The saloon car was driven at a speed of about 5-10 kilometres per hour towards Sergeant A who claimed that he clearly recognized the driver as COM at a distance of about 3 metres, and he confirmed that COM was the only person on board the vehicle. Sergeant A was on plainclothes duty that day and was off-duty when he witnessed the alleged incident. He did not intercept COM’s vehicle or report the incident to his supervisory officers at once albeit he considered ‘driving whilst disqualified’ was a rather serious traffic offence. Instead, he noted down the details of the incident on a piece of paper at the scene.

After that, Sergeant A was on leave for 6 consecutive days and resumed duty on 30 September, but he did not report the incident until 4 October by forwarding a statement to the Traffic Investigation Group. Sergeant A stated that he was busily engaged in work upon resumption of duty, and was unable to report the incident then.

COM was later arrested by the Police and charged with the offence of ‘driving whilst disqualified’ and ‘using a vehicle without third party insurance’. COM was acquitted of both charges after trial. The Magistrate commented that, while Sergeant A was not a dishonest witness, he found it very strange for Sergeant A to handle COM’s case in such a manner, and considered Sergeant A’s explanation of the incident not convincing.

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Allegations

After the trial, COM lodged a complaint with CAPO alleging that:

- (i) Sergeant A failed to stop COM at the scene when he spotted COM ‘driving whilst disqualified’ [**Allegation (a) – ‘Neglect of Duty’**];
- (ii) As the said offence was of serious nature, Sergeant A should have called for assistance to stop COM and reported it to his supervisory officers. He did not report the incident to the Traffic Investigation Unit until 4 October (i.e. 11 days after the alleged incident) [**Allegation (b) – ‘Neglect of Duty’**]; and
- (iii) Sergeant A fabricated the evidence and COM was puzzled by Sergeant A’s real intention of doing this [**Allegation (c) – ‘Fabrication of Evidence’**].

After investigation, CAPO classified allegation (a) as ‘No Fault’ because Sergeant A was acting in accordance with the Force Procedures Manual.

Allegations (b) and (c) were classified as ‘Unsubstantiated’ in the absence of concrete evidence to prove or disprove the allegations.

IPCC’s Observation

IPCC considered that Sergeant A, as an experienced traffic police officer, had the duty to assist in collecting the necessary evidence in support of the offence by either immediately reporting the matter to his supervisors in the Traffic Wing or calling the Police Console for assistance to intercept COM who was allegedly still on the road then. Therefore, IPCC could not agree to the findings of allegation (b) – ‘Neglect of Duty’.

CAPO’s Response

Having re-examined the case, CAPO concurred with the Council’s observation and agreed to re-classify **allegation (b) – ‘Neglect of Duty’** from ‘Unsubstantiated’ to ‘**Substantiated**’. In this connection, Sergeant A would be advised without entry to his record of service to guard against recurrence in future. CAPO also requested the Traffic Headquarters to re-examine its existing policy on summons applications and to see whether there was a need to tighten up the requirement on the reporting period for similar cases.

Independent Police Complaints Council
23 March 2009