

Report of the IPCC 2005

Table of Contents

Vision, Mission and Values of the IPCC

Biographies of IPCC Members

List of IPCC Lay Observers

Chapter 1 Major Activities of the Year

Introduction	1.1-1.2
Performance Pledges of the IPCC	1.3-1.4
Monitoring of Serious Complaints	1.5
Monitoring of CAPO's Investigation Reports	1.6
The IPCC Observers Scheme and Briefings for Newly Appointed Lay Observers	1.7-1.8
Interviewing Witnesses Scheme	1.9-1.10
Proposal to establish the IPCC as a Statutory Body	1.11-1.12
Talks at Secondary Schools	1.13
Visits to Frontline Policing Activities	1.14-1.15
Visit of the Delegation of the Macao Security Forces Disciplinary Committee	1.16
Visit by students of the Zhongnan University of Economics and Law	1.17

Chapter 2 General Information

The Independent Police Complaints Council (IPCC)	2. 1-2.4
The IPCC Secretariat	2.5
Processing of Complaints Against the Police	
(a) Role Played by the Complaints Against Police Office (CAPO)	2.6
(b) Role Played by the IPCC	2.7-2.13
Follow-up Action Taken after Endorsement of the CAPO Reports	2.14-2.15

Chapter 3 Complaint Classifications

Introduction	3.1
Substantiated	3.2
Substantiated Other Than Reported	3.3
Not Fully Substantiated	3.4
Unsubstantiated	3.5-3.6
False	3.7-3.8
No Fault	3.9-3.10
Withdrawn	3.11-3.12
Not Pursuable	3.13-3.15
Curtailed	3.16

Informally Resolved.....	3.17-3.19
Sub-judice	3.20-3.21
Others	3.22-3.23

Chapter 4 General Review of Statistics on Complaint Cases Endorsed by the IPCC

Number of Complaints.....	4.1
Nature of Allegations	4.2
Number of Investigation Reports	4.3-4.4
Queries Raised with CAPO.....	4.5
Results of Investigations and Substantiation Rates.....	4.6-4.11
Follow-up Action Taken on Investigation Results	4.12-4.13
Classification Changes.....	4.14
Suggested Improvements to Police Procedures and Practices	4.15

Chapter 5 Monitoring and Review of the Handling of Complaints

Introduction.....	5.1
Major Categories of Queries/Suggestions Raised with CAPO	5.2-5.4

Chapter 6 Cases of Interest

Reason for Reporting Individual Cases.....	6.1
Selection of Cases for Reporting.....	6.2
Anonymity	6.3-6.4
Case Summaries	
Case 1	6.5-6.12
Case 2.....	6.13-6.17
Case 3.....	6.18-6.22
Case 4.....	6.23-6.29
Case 5.....	6.30-6.35
Case 6.....	6.36-6.40
Case 7.....	6.41-6.48
Case 8.....	6.49-6.56
Case 9.....	6.57-6.66
Case 10.....	6.67-6.79
Case 11.....	6.80-6.89
Case 12.....	6.90-6.95
Case 13.....	6.96-6.101
Case 14.....	6.102-6.114

Chapter 7 Acknowledgements 7.1-7.3

Appendices

Vision, Mission and Values of the IPCC

Our Vision

- That Hong Kong has a fair, effective and transparent police complaints system which ensures that the investigation of each and every public complaint against the Police is conducted justly, promptly, thoroughly and without prejudice.

Our Mission

- Independent, impartial and thorough monitoring of the results of investigation conducted by the Complaints Against Police Office into public complaints against the Police.
- Identification of and making recommendations on ways and means of improving the thoroughness, transparency, fairness and speed of the police complaint investigation process.

Our Values

- Unbiased and persistent pursuit of truth
- Thorough and attentive examination of investigation results
- Reasonable, fair and prompt in making judgements
- Promotion of good procedures, practices, and values which would minimize police complaints
- Efficient and effective use of resources
- Strict observance of the code of confidentiality

Biographies of IPCC Members

Mr Ronny WONG Fook-hum, SC, JP
Chairman, IPCC

Education and Professional Qualifications
Senior Counsel

Occupation
Barrister

Major Public Service

- Chairman, Air Transport Licensing Authority
- Chairman, Town Planning Appeal Board
- Member, Administrative Appeals Board

Hon Alan LEONG Kah-kit, SC
Vice-Chairman, IPCC

Education and Professional Qualifications
LLB (University of Hong Kong)
LLM (University of Cambridge, UK)
Barrister (Senior Counsel)

Occupation
Senior Counsel

Major Public Service

- Member, Legislative Council
- Non-executive Director, Board of Urban Renewal Authority
- Chairman, Water Pollution Control Appeal Board Panel
- Director, Board of Directors of the Applied Research Council
- Member, Criminal and Law Enforcement Injuries Compensation Boards

Hon Daniel LAM Wai-keung, BBS, JP
Vice-Chairman, IPCC

Education and Professional Qualifications

Bachelor of Business Administration, Saint Olav's Academy, New Jersey, USA

Occupation

Company Director

Major Public Service

- Member, Legislative Council
- Chairman, Islands District Council
- Vice-Chairman, Heung Yee Kuk, New Territories
- Member, Chinese People's Political Consultative Conference Shenzhen Municipal Committee
- Chairman, Peng Chau Rural Committee

Dr Hon LUI Ming-wah, SBS, JP

Vice-Chairman, IPCC

Education and Professional Qualifications

MSc (Applied Science), University of New South Wales, Australia

PhD (Applied Science), University of Saskatchewan, Canada

CEng, PEng

Occupation

Company Managing Director

Major Public Service

- Member, Legislative Council
- Chairman, Legislative Council Panel on Constitutional Affairs
- Member, Council of the Hong Kong Polytechnic University
- Member, Chinese People's Political Consultative Conference
- Member, Trade and Industry Advisory Board

Mr YEUNG Yiu-chung, BBS, JP

Member, IPCC

Education and Professional Qualifications

BSocSc, Chinese University of Hong Kong

Diploma in Education, Chinese University of Hong Kong

Occupation

Secondary School Principal

Major Public Service

- Hong Kong Deputy to the Ninth and Tenth National People's Congress of the People's Republic of China
- President, Hong Kong Federation of Education Workers
- Member, Executive Committee, Commission on Strategic Development
- Member, Committee on Libraries
- Former Member, Legislative Council (1998–2004)

Dr LO Wing-lok, JP

Member, IPCC

Education and Professional Qualifications

MBBS (HK)

MRCP (UK)

DTM&H (Lond)

FHKCP

FHKAM (Medicine)

FRCP (Edin)

Occupation

Doctor

Major Public Service

- Member, Equal Opportunities Commission
- Member, Country and Marine Parks Board
- Member, Advisory Council on Food and Environmental Hygiene
- Member, Hong Kong Council on Smoking and Health
- Member, Community Sports Committee

Ir Edgar KWAN

Member, IPCC

Education and Professional Qualifications

BSc (Eng), University of Hong Kong

MSc (Eng), University of Hong Kong

MBA, Chinese University of Hong Kong
Fellow, The Hong Kong Institution of Engineers
Fellow, The Institution of Civil Engineers, UK
Fellow, The Institution of Structural Engineers, UK
Chartered Engineer, UK
Registered Professional Engineer (Civil and Structural)

Occupation

Civil Engineer

Major Public Service

- Chairman, Construction Industry Training Authority (CITA)
- Vice-President, Hong Kong Construction Association
- Member, Appeal Tribunal Panel (Buildings)
- Co-opted Member, Broadcasting Authority Complaints Committee
- Member, Engineers Registration Board

Dr SHUM Ping-shiu, BBS, JP

Member, IPCC

Education and Professional Qualifications

MBBS (HK)

FRCPsych (UK)

FHKAM (Psychiatry)

Occupation

Doctor

Major Public Service

- Member, Long-term Prison Sentences Review Board
- Member, Mental Health Review Tribunal
- Member, Health Committee, Medical Council of Hong Kong
- Member, Executive Committee of the Society for Aid & Rehabilitation of Drug Abusers
- Former Member, Elderly Commission (1997–2003)

Professor Daniel SHEK Tan-lei, BBS, JP

Member, IPCC

Education and Professional Qualifications

PhD (Psychology), University of Hong Kong

BSocSc, University of Hong Kong

Fellow, Hong Kong Psychological Society

Occupation

Professor

Major Public Service

- Member, Governing Committee of the Beat Drugs Fund Association
- Member, Citizens Advisory Committee on Community Relations of the Independent Commission Against Corruption (ICAC)
- Member, Fight Crime Committee
- Chairman, Executive Committee of Heep Hong Society
- Chairman, Society of Boys' Centres

Mr Daniel CHAM Ka-hung, MH

Member, IPCC

Education and Professional Qualifications

MBA, University of Hull, UK

FCMI (Fellow of Chartered Management Institute, UK)

Diploma in Recreation Management, Chinese University of Hong Kong

Diploma in Management Studies, Hong Kong Polytechnic University

Occupation

Company Director

Major Public Service

- Member, Yuen Long District Council
- Chairman, Yuen Long District Fight Crime Committee
- Chairman, Tin Shui Wai South Area Committee
- Vice-Chairman, Security and Guarding Services Industry Authority
- Member, Committee on Community Support for Rehabilitated Offenders

Dr Charles KOO Ming-yan, MH

Member, IPCC

Education and Professional Qualifications

PhD (Honoris Causa) in Business Management, Pacific Western University, USA
MA in Journalism, University of Wisconsin-Madison, USA
MSc in Education, University of Southern California, USA
Diploma in Communication, Hong Kong Baptist University
Fellow, The Royal Society for the Encouragement of Arts, Manufactures and Commerce, UK (FRSA)
Fellow, The Institute of Commercial Management, UK (FICM)
Full Member, Institute of Public Relations, UK (MIPR)
Professional Manager, The Professional Institute of Management of Canada (PMgr)

Occupation

Consultant

Major Public Service

- Treasurer, Causeway Bay Area Committee
- Member, Management and Executive Committees, SARDA
- Former Chairman, Wan Chai District Fight Crime Committee (1998-2002)
- Former Chairman, Causeway Bay Area Committee (1998-2000)
- Former Member, Fight Crime Committee Publicity and Promotion Sub-committee (1996-2000)

Mr Edward PONG Chong, BBS, JP
Member, IPCC

Education and Professional Qualifications

MMet, University of Sheffield, England
BSc, University of Manchester, England
Chartered Engineer
Member, Institute of Materials, Minerals & Mining, UK
Member, The Hong Kong Institution of Engineers

Occupation

Company Executive Director

Major Public Service

- Chairman, Security and Guarding Services Industry Authority

- Chairman, Security Services Training Board, Vocational Training Council
- Member, Tuen Mun District Council
- Member, Tuen Mun South West Area Committee
- Member, Advisory Board of Yan Oi Tong

Mr HUI Yung-chung, JP

Member, IPCC

Education and Professional Qualifications

BA (Honours), University of Hong Kong

Certificate in Education, University of Hong Kong

Occupation

Assistant Principal

Major Public Service

- Chairman, Southern District Fight Crime Committee
- Member, Appeal Panel (Housing)
- Adjudicator, Panel of Adjudicators (Control of Obscene and Indecent Articles)
- Chairman, Ap Lei Chau Community Halls Management Committee
- Vice-Chairman, Aberdeen Kaifong Welfare Association

Professor Benjamin TSOU Ka-yin, BBS

Member, IPCC

Education and Professional Qualifications

PhD (UC, Berkeley)

MA (Linguistics), Harvard University

Fellow, The Chartered Institute of Linguists (UK)

Member, Royal Academy of Overseas Sciences (Belgium)

Occupation

Director, Language Information Sciences Research Centre, City University of Hong Kong

Professor (Chair) of Linguistics and Asian Languages, City University of Hong Kong

Major Public Service

- Expert Representative for China, ISO/TC37 Committee on Textual Segmentation
- Member, Chinese Language Interface Advisory Committee
- Member, Appeal Board on Exemption from the Language Proficiency Assessment Requirement
- Former Member, Sir Edward Youde Memorial Fund Council (1987–2003)
- Former Member, Council of the Open University of Hong Kong (1991–1994)

Ms Vivien CHAN, JP

Member, IPCC

Education and Professional Qualifications

LLB (Hons), Reading University, UK

LLM (Hons), London University, UK

Occupation

Solicitor

Notary Public

Major Public Service

- Chairman, Advisory Committee on Travel Agents
- Member, Hospital Authority
- Member, Fight Crime Committee
- Member, Hong Kong Tourism Board

Dr Michael TSUI Fuk-sun

Member, IPCC

Education and Professional Qualifications

Master of Dental Science, University of Sydney, Australia

Bachelor of Laws (Hons), University of London, UK

Dental Surgeon, Dental Council of Hong Kong

Barrister, Supreme Court of Hong Kong

Occupation

Dentist (Private Practice)

Company in-house Counsel

Major Public Service

- Member, Securities and Futures Appeals Tribunal
- Member, Security and Guarding Services Industry Authority
- Former Member, Dental Council of Hong Kong (1989–2001)
- Former Member, Criminal and Law Enforcement Injuries Compensation Boards (1997–2003)
- Former Member, Consumer Council (1994–2000)

Dr TSE Tak-fu, BBS

Member, IPCC

Education and Professional Qualifications

MBBS (HK)

FRCP (Lond)

FRCP (Edin)

FRCP (Glasg)

FHKCP

FHKAM (Medicine)

FACC

Occupation

Medical Specialist (Cardiology)

Registered Chinese Medicine Practitioner

Major Public Service

- Deputy Commissioner (Human Resources), Auxiliary Medical Service
- Council Member, Hong Kong College of Cardiology
- Member, Chinese Medicine Council of Hong Kong
- Former Member (Representative), Dental Council of Hong Kong (1996–2005)
- Former Member, Medical Council of Hong Kong (1997–1998)

Ms Priscilla WONG Pui-sze, JP

Member, IPCC

Education and Professional Qualifications

LLB , University of Hong Kong

LLM, London University, UK

PCLL, University of Hong Kong

Barrister (Counsel)

Advocate & Solicitor, Republic of Singapore

Occupation

Barrister-at-law

Major Public Service

- Chairman, Appeal Board (Betting Duty Ordinance)
- Deputy Chairman, Appeal Board Panel (Consumer Goods Safety)
- Member, Board of Trustees of the Lord Wilson Heritage Trust
- Member, Management Committee of the Consumer Legal Action Fund
- Member, Council of the Hong Kong Academy for Performing Arts

Mr Frederick TONG Kin-sang

(Representative of the Ombudsman)

Ex-officio Member, IPCC

List of IPCC Lay Observers

1. Mr CHAN Bing-woon, SBS, JP
2. Mr Bunny CHAN Chung-bun, BBS, JP
3. Mr CHAN Ka-wai
4. Mr Jacky CHAN Kwok-kai
5. Mr CHAN Kwok-tim, MH
6. Mr Henry CHAN Man-yu
7. Mr Thomas CHAN Siu-kam, JP
(till 31 August 2005)
8. Mr Tony CHAN Tak-wai
9. Mr CHAN Wai-chung, MH
10. Mr CHAN Wai-ming, MH
11. Mr Dominic CHAN Wing-kam, MH
12. Mr William CHAN Wing-lim
13. Mr Joseph CHAN Yuek-sut, BBS
14. Ms CHAU Chuen-heung, MH, JP
15. Mr CHAU How-chen, SBS, JP
16. Mr Francis CHAU Yin-ming, MH
(till 31 March 2005)
17. Mrs Betty CHENG YUEN Pui-yan
18. Ms Emily CHEUNG Mui-seung
19. Mr Christopher CHEUNG Wah-fung, JP
20. Ms Susanna CHING Che-man
21. Dr CHIU Chun-bong, JP
22. Mr CHONG Kam-ning, MH
(till 31 August 2005)
23. Mr Joseph CHOW Kam-siu
24. Mr CHOW Yick-hay, BBS, JP
25. Mr CHU Ching-hong
26. Ms Maureen CHU Mau-lam, MH
(till 31 March 2005)
27. Rev CHU Yiu-ming
28. Mr Christopher CHUNG Shu-kun, MH, JP
29. Mr CHUNG Wai-ping, BBS, MH
30. Mr FUNG Kam-chiu, MH
31. Mr HAU Shui-pui, SBS
32. Mr HUI Ka-hoo, MH
33. Mr IP Kwok-chung, BBS, JP
34. Mr KAN Chi-ho, MH
35. Mr KO Tam-kan
36. Mr David LAI Tat-sang, MH

37. Dr Lawrence LAM Chi-kit, MH, SBStJ
38. Mr Stewart LAM Kin-ko
39. Mr LAM Kit-sing
40. Dr Conrad LAM Kui-shing, JP
41. Mr LAM Tak-leung
42. Ms Leona LAM Wai-ling, JP
(till 31 March 2005)
43. Mrs Peggy LAM PEI Yu-dja, GBS, JP
44. Mr Ivan LAU Ho-kit
45. Ms Elizabeth LAW
46. Miss Cecilia LEE Sau-wai
(till 31 August 2005)
47. Ms LEUNG Fu-wing, MH
48. Mr LEUNG Kin-man, MH
49. Mr LEUNG Lai
50. Mr LEUNG Sau-chi, JP
51. Mr Edward LEUNG Wai-kuen
52. Mr LEUNG Wing-kuen
53. Dr Eric LI Ka-cheung, GBS, JP
54. Mr David LI Ka-fai, MH
55. Mr Bruce LIU Sing-lee
(till 31 March 2005)
56. Mr LO Kwok-hung, MH, SBStJ
57. Ms MAR Yuet-har, BBS, MH
58. Miss Rosanda MOK Ka-han
59. Mr George NG Sze-fuk, BBS, JP
60. Mr Thomas PANG Cheung-wai, JP
61. Mr Joseph PANG Yuk-wing, JP
62. Mr David PONG Chun-ye
(till 31 March 2005)
63. Mr SUEN Kai-cheong, MH, JP
64. Mr TAM Kwok-kiu, MH
65. Dr Banny TAM Ping-lap
66. Mr George TAM Siu-ping
67. Ms Christina TING Yuk-chee, BBS, JP
68. Mr Jimmy TSE Lai-leung, MH
69. Dr John TSE Wing-ling
70. Mr Aaron WAN Chi-keung, BBS, JP
71. Mr Justein WONG Chun, JP
72. Mr WONG Kam-chi, MH
73. Hon WONG Kwok-hing, MH
74. Ir Peter WONG Kwok-keung, JP
75. Ir Billy WONG Wing-hoo, JP
76. Ms Ada WONG Ying-kay, JP

77. Mr WU Chor-nam, JP

78. Mr Henry WU King-cheong, BBS, JP
(till 31 August 2005)

79. Mr Chris YIP Yiu-shing, MH

80. Mr Jonathan YU Hoy-gin, JP
(till 31 March 2005)

81. Mrs YUEN CHAN Po-hing

Chapter 1 Major Activities of the Year

Introduction

- 1.1 The Independent Police Complaints Council (IPCC) is an independent body whose Members are appointed by the Chief Executive. Its main function is to monitor and review the investigations conducted by the Complaints Against Police Office (CAPO) of the Hong Kong Police Force (HKPF) of complaints made against the Police by the public.
- 1.2 To further promote the independent status of the IPCC and enhance its monitoring role in the police complaints system, the IPCC has instituted a programme geared at continuous improvement. This chapter summarizes some of the major activities of the IPCC in 2005.

Performance Pledges of the IPCC

- 1.3 To provide a higher level of service, the IPCC promulgated in 1998 a set of performance pledges in terms of the standard response time in handling public enquiries and monitoring complaints against the Police. The standard response time for monitoring of complaints is measured from the date of receipt of CAPO's final investigation reports. The performance of the IPCC in meeting its pledges in 2005 is summarized below:

	Performance Target	No. of Enquiries/ Cases Processed Within Target	% Within Performance Target
Standard response time for enquiries			
By telephone or in person	Immediately	738 (926)	100 (100)
In writing	Within ten days	312 (296)	100 (100)
Standard response time for monitoring of complaints			
Normal cases	Less than 3 months	1,806 (2,214)	100 (99.9)
Complicated cases	Within three to six months	1,021 (1,080)	99.9 (99.8)
Appeal cases	Within three to six months	115 (135)	99.1 (100)

Figures in bracket denote the performance achieved for 2004.

- 1.4 With experience gained from past years' operation, the IPCC will continue to strive to maintain a high level of performance in future.

Monitoring of Serious Complaints

- 1.5 The Serious Complaints Committee monitored 12 cases in 2005. CAPO provided monthly progress reports on these cases. The Committee raised queries and sought clarifications on some of the reports while CAPO's investigations were still being conducted.

Monitoring of CAPO's Investigation Reports

- 1.6 The IPCC endorsed a total of 2,828 CAPO's investigation reports involving 4,695 allegations during the year. More details are given in Chapter 4.

The IPCC Observers Scheme and Briefing for Newly Appointed Lay Observers

- 1.7 In 2005, 10 new Lay Observers were appointed by the Secretary for Security to observe investigations by CAPO/Formation investigating officers and Informal Resolution interviews, while 10 serving Lay Observers retired. A briefing was conducted by the IPCC Secretariat on 13 September 2005 for the new Observers to familiarize them with the police complaints system and the operation of the Observers Scheme. As at 31 December 2005, there were altogether 71 Lay Observers.



Briefing for the new IPCC Lay Observers held on 13 September 2005

- 1.8 In 2005, 327 observations (144 for Informal Resolution and 183 for others) were arranged under the Scheme, among which 15 visits were conducted by IPCC Members and 312 visits were conducted by Lay Observers.

Interviewing Witnesses Scheme

- 1.9 Under the IPCC Interviewing Witnesses Scheme, IPCC Members may interview witnesses to clarify doubtful points in the course of examining CAPO's investigation reports.
- 1.10 Each interview is conducted by a panel of two IPCC Members. After each interview, a report is submitted to the full Council which will follow up with CAPO on the panel's recommendations. No witness was interviewed by the IPCC under the Scheme in 2005.

Proposal to establish the IPCC as a Statutory Body

- 1.11 To enhance the credibility and transparency of the police complaints system, the Administration plans to make the IPCC a statutory body. IPCC's composition, functions and powers will be specified in law.

- 1.12 The Administration consulted the IPCC on the latest draft IPCC Bill during the year. The IPCC will keep in view the introduction of the IPCC Bill into the Legislative Council.

Talks at Secondary Schools

- 1.13 As part of its on-going publicity programme, the IPCC continued to organize talks at secondary schools in 2005. The talks aimed at promoting an awareness of the operation of the police complaints system and the Council's work among the younger generation.



Staff of IPCC Secretariat conducting talk at a Secondary school



Students watching the IPCC Video

Visits to Frontline Policing Activities

- 1.14 During the year, IPCC Members made five visits to frontline policing activities under a visit programme organized by the Complaints and Internal Investigations Branch of the Hong Kong Police Force. Details of the visits were as follows:

28 February 2005	Visit to Tsuen Wan Police District Traffic Day
22 April 2005	Visit to the Police Public Relations Branch, the Complaints and Internal Investigations Branch cum the Opening Ceremony of Complaints Against Police Office Reporting Centre
27 June 2005	Visit to the Regional Command and Control Centre, New Territories North and the Police Tactical Unit in Fanling
13 October 2005	Visit to Traffic New Territories North
13 December 2005	Visit to the Observation Post overlooking the Hong Kong Convention and Exhibition Centre and Convention Avenue during the World Trade Organization Sixth Ministerial Conference



IPCC Members observe how frontline officers deal with jaywalking in Tsuen Wan



IPCC Chairman, Mr Ronny Wong Fook-hum, signs the visitor's book before touring the new Police Complaints Reporting Centre



IPCC Members visit the Police Reporting Centre



IPCC Members being briefed on tactical training at Police Tactical Unit Headquarters



A police officer briefed IPCC Members on equipment and accoutrements used by PTU officers



A police officer demonstrates the use of breath-screening device for detecting drink driving



Police officers brief IPCC Members on their anti-racing strategies



IPCC Members observe police operations from the Observation Post

- 1.15 The visits were aimed at further enhancing IPCC Members' understanding of police operation and the work of frontline police officers. They were considered very useful by the participating Members.

Visit of the Delegation of the Macao Security Forces Disciplinary Committee

- 1.16 An 8-member delegation of the Macao Security Forces Disciplinary Committee visited the IPCC on 9 June 2005. During the visit, they

were briefed on the Council's roles and functions by Ir Edgar KWAN, IPCC Member.



The delegation of the Macao Security Forces Disciplinary Committee visited the IPCC

Visit by students of the Zhongnan University of Economics and Law

- 1.17 Two students of the Zhongnan University of Economics and Law visited the IPCC on 3 August 2005. During the visit, they were briefed on the Council's work by Mr Y. K. LI, Senior Assistant Secretary (Planning and Support).

Chapter 2 General Information

The Independent Police Complaints Council (IPCC)

- 2.1 The IPCC has its origin in the UMELCO Police Group which evolved into the Police Complaints Committee (PCC), a non-statutory but independent body commissioned by the then Governor in 1986. The PCC was renamed as the Independent Police Complaints Council (IPCC) on 30 December 1994.
- 2.2 The IPCC comprises a Chairman, three Vice-chairmen and fourteen Members appointed by the Chief Executive. The Ombudsman (or her representative) serves as an ex-officio Member. With effect from 1 January 2005, Hon Alan LEONG Kah-kit, SC (who was a serving Member), Hon Daniel LAM Wai-keung, BBS, JP and Dr Hon LUI Ming-wah, SBS, JP were appointed as Vice-chairmen of the Council while Dr TSE Tak-fu, BBS and Ms Priscilla WONG Pui-sze, JP were appointed as new Members to the Council.
- 2.3 The main function of the IPCC is to monitor and review the investigations conducted by CAPO of public complaints against the Police. Its terms of reference are:
 - (a) to monitor and, where it considers appropriate, to review the handling by the Police of complaints by the public;
 - (b) to keep under review statistics of the types of conduct by police officers which lead to complaints by members of the public;
 - (c) to identify any faults in Police procedures which lead or might lead to complaints; and
 - (d) where and when it considers appropriate, to make recommendations to the Commissioner of Police or, if necessary, to the Chief Executive.

2.4 For better execution of its duties, the IPCC has committees dedicated to different subjects:

(a) The Publicity and Survey Committee

To consider, plan and launch IPCC publicity activities, including surveys and researches.

Chairman: Hon Alan LEONG Kah-kit, SC

Members: Dr SHUM Ping-shiu, BBS, JP
Professor Daniel SHEK Tan-lei, BBS, JP
Mr Daniel CHAM Ka-hung, MH
Mr Edward PONG Chong, BBS, JP
Mr HUI Yung-chung, JP
Professor Benjamin TSOU Ka-yin, BBS

(b) The Serious Complaints Committee

To determine the criteria for classifying serious cases and the procedures for monitoring serious complaints; to monitor and review complaints which meet the set criteria.

Chairman: Dr LO Wing-lok, JP

Members: Hon Alan LEONG Kah-kit, SC
Dr Hon LUI Ming-wah, SBS, JP
Ir Edgar KWAN
Dr SHUM Ping-shiu, BBS, JP
Dr Charles KOO Ming-yan, MH
Dr Michael TSUI Fuk-sun
Ms Priscilla WONG Pui-sze, JP

The IPCC Secretariat

2.5 The IPCC is supported by a full-time Secretariat, headed by an Administrative Officer Staff Grade 'C' (as Secretary) with 21 general grades staff and a Senior Government Counsel serving as legal adviser to the IPCC. The major function of the Secretariat is to examine all complaint investigation reports submitted by CAPO in detail to ensure that each and every case is investigated in a

thorough and impartial manner before recommending them to IPCC Members for endorsement. Under the supervision of the Secretary and Deputy Secretary (Chief Executive Officer), three teams, each comprising one Senior Assistant Secretary (SAS) and one Assistant Secretary (AS), pitched at Senior Executive Officer and Executive Officer I levels respectively, are responsible exclusively for vetting complaint investigations. The fourth team, Planning and Support, comprising one SAS and 13 executive, clerical and secretarial staff, is responsible for general administration, research, publicity and other support services, as well as servicing the Serious Complaints Committee. An organization chart of the IPCC Secretariat is at Appendix I.

Processing of Complaints Against the Police

(a) Role Played by the Complaints Against Police Office

(CAPO)

2.6 All complaints, irrespective of origin, are referred to CAPO for investigation. A flow-chart illustrating the process by which complaints are examined and investigated by CAPO is at Appendix II. It also shows how Police Formations, specialist Police Divisions, the Government Prosecutor and the Police Legal Adviser may become involved in an investigation. At the conclusion of investigation, CAPO classifies a complaint according to the result (please refer to Chapter 3 for more details) and prepares a report for the IPCC for review and endorsement.

(b) Role Played by the IPCC

2.7 The CAPO submits to the IPCC all investigation reports together with the related case or crime investigation files. These are scrutinized in detail by the Executive Officers of the Council Secretariat who will seek legal advice from the in-house Senior Government Counsel where necessary.

2.8 All CAPO reports, including the draft replies to complainants, are discussed in detail at the weekly Secretariat case conferences chaired by the Secretary, IPCC.

- 2.9 After a case conference, the Secretariat raises written comments and queries, if any, with CAPO. Where appropriate, the Secretariat also draws CAPO's attention to inadequacies in existing Police policies, procedures and practices and proposes remedial measures.
- 2.10 The replies received from CAPO are carefully scrutinized by the Secretariat before preparing its own covering reports for consideration by the IPCC. Vetted cases are submitted to Members in batches every week.
- 2.11 IPCC Members are divided into three sub-groups to share the workload. Each sub-group comprises a Vice-chairman and five Members. Each case is studied by the respective Vice-chairman and Members. The Chairman of the IPCC examines all serious cases and any other cases submitted to him by the Secretary and/or any Vice-chairman or Member.
- 2.12 The majority of the cases are cleared by circulation of papers. However, complicated cases which involve policy implications or which cannot be resolved by correspondence between the Secretariat and CAPO are discussed at the Joint IPCC/CAPO Meetings which are chaired by the Chairman of the IPCC.
- 2.13 At Appendix III is a flow-chart illustrating the various steps by which complaints are examined and monitored by the IPCC.

Follow-up Action Taken after Endorsement of the CAPO Reports

- 2.14 Following endorsement by the IPCC, CAPO will inform the complainants of the results of investigations. CAPO will also notify the complainees of the results and take other appropriate follow-up or remedial action.
- 2.15 As part of the review mechanism, the IPCC Secretariat has assumed the responsibility of informing complainants of the outcome of CAPO review/re-investigation into their complaints.

Chapter 3 Complaint Classifications

Introduction

3.1 A complaint may consist of one or more allegations. After an allegation has been investigated, it is classified, according to the findings, into one of the following eleven classifications:

- Substantiated
- Substantiated Other Than Reported
- Not Fully Substantiated
- Unsubstantiated
- False
- No Fault
- Withdrawn
- Not Pursuable
- Curtailed
- Informally Resolved
- Sub-judice

Substantiated

3.2 An allegation is 'Substantiated' :

where there is sufficient reliable evidence to support the allegation made by the complainant.

Example

The complainant (COM), while using her mobile phone outside the scaffoldings of a construction site, got wet as some water and sand debris were dropped from the construction site. Noting that her mobile phone which got wet was not working, she entered the construction site and managed to locate male A, the person-in-charge of the construction site, for compensation. She later went to a hospital for medical treatment with the finding of 'Head Injury'. On the following day, she reported the case to a police station where Detective Senior Police Constable X (DSPC X) took over the investigation. After site enquiry by DSPC X, the person-in-charge of the scaffolding work expressed his willingness to compensate COM

and requested to talk with COM regarding the compensation. DSPC X arranged a private talk between COM and male A at the crime office of the police station. DSPC X did not take part in the talk. After settlement of the compensation, COM, in the presence of male A and DSPC X, demanded the Police to take prosecution action against the construction site. Amidst his explanation that police prosecutions hinged on the available evidence and legal procedures, DSPC X said that 'the concerned party has agreed to compensate for the damage of your mobile phone, but you want more than that.....'. On hearing this, COM became furious and vigorously interrupted the conversation by speaking foul language. COM refused to listen to DSPC X's further explanation and left the police station immediately afterwards. She alleged that the Police was biased in favour of the construction site personnel ('Misconduct'). After investigation, the company which carried out the scaffolding work was summonsed under Section 4B, Summary Offences Ordinance.

After investigation, CAPO noted that DSPC X was put in a trying moment during which he had exercised self-constraint towards COM's insulting words. Though DSPC X explained that his conversation with COM was interrupted by the latter, as corroborated by male A, CAPO noted that his unpleasant remarks uttered to COM in context, appeared subjective in nature and unnecessary. The allegation of 'Misconduct' was therefore 'Substantiated' against DSPC X.

Substantiated Other Than Reported

3.3 The following definition is adopted for 'Substantiated Other Than Reported' ('SOTR'):

where matters other than the original allegations have been identified (such as breach of internal discipline or failure to observe Police Orders and Regulations) and are found to be substantiated. Such matters must be closely associated with the complaint itself.

Example

The complainant (COM) made a report to the 999 console about a vehicle obstruction on a road. About 45 minutes later, COM alleged that he received a call from Police Constable X (PC X) who told him that there was no obstruction at the location and argued with him using foul language. Within half an hour following PC X's call, COM

received two more calls of a similar nature. COM suspected that they were made by the same officer. He also received nine more similar nuisance calls in the following morning. COM lodged a complaint of 'Offensive Language' against PC X and made a report of 'Telephone Nuisance'.

COM later withdrew his complaint of 'Offensive Language' and the allegation was classified as 'Withdrawn'. Regarding his report of 'Telephone Nuisance', police investigation revealed that Police Constable Y (PC Y), after knowing the altercation between PC X and COM, made the nuisance calls to COM by using a prepaid SIM card. PC Y admitted having made the nuisance calls to COM, and it transpired that PC X did not stop PC Y's act and kept quiet about it. The legal advice sought did not recommend a charge of 'Telephone Nuisance' due to the time bar for proceedings. Since the officers' misconduct constituted a breach of discipline which was closely related to the original complaint of 'Offensive Language', a 'Substantiated Other Than Reported' count of 'Misconduct' was registered against the two officers. Disciplinary proceedings would be instituted against them.

Not Fully Substantiated

3.4 The 'Not Fully Substantiated' classification applies:

where there is some reliable evidence to support the allegation made by the complainant, but insufficient to fully substantiate the complaint.

Example

The complainant (COM) went to a police station in District A to make a report of theft of her mobile phone which took place in District B. COM alleged that Detective Senior Police Constable X (DSPC X) told her that it was no use to report the case there and persuaded her to report the case directly to the police station in District B. Instead of acting upon DSPC X's advice, the complainant lodged an allegation of 'Neglect of Duty' against DSPC X after leaving the police station.

DSPC X, who denied the allegation, admitted having explained the reporting procedures to the complainant by advising her that the case would be transferred to District B for follow-up enquiry, and COM

then left without giving a statement. CAPO noted that it was the duty of the Duty Officer, or in his absence, the Assistant Duty Officer, to assess each individual report for referral to the Divisional Crime Unit. DSPC X should not have made a pre-judgment on the classification of COM's report. Moreover, CAPO opined that DSPC X might have over-emphasized the referral of the case, which led to a misinterpretation by COM that her report was rejected and her departure without making a report. However, considering that there was no independent witness or other corroboration to prove what actually transpired in the dialogue between COM and DSPC X at the material time, the allegation of 'Neglect of Duty' was classified as 'Not Fully Substantiated'.

Unsubstantiated

3.5 A complaint is classified as 'Unsubstantiated':

where there is insufficient evidence to support the allegation made by the complainant.

3.6 In a typical 'Unsubstantiated' complaint, the complainant's allegation is denied by the complainee and there is neither independent witness nor other evidence to support either side's story.

Example

Whilst the complainant (COM) was driving a public light bus (PLB) with passengers on board in the late evening of the material day, his vehicle was intercepted by Police Constable A (PC A) who was performing anti-PLB robbery snap check duty. In the course of checking, PC A observed that the upper part of COM's seat belt was fastened by a clip which hindered the proper movement of the belt, resulting in it being loosened. After conducting a measurement, he found that the distance between COM's chest and the belt was about two fists apart. PC A thus pointed out to COM that he had committed the offence of 'Driving light bus without being securely fastened with seat belt' and ticketed him for the offence. COM said that he had fastened his seat belt while he was driving and only loosened the seat belt to get his driving licence from his wallet for PC A's checking.

COM drove away after the incident and lodged a complaint of 'Rudeness' against PC A subsequently, alleging that the latter put the fixed penalty ticket and the driving licence on his hand with force and told him to drive away rudely after ticketing him. COM claimed that the other officer who also boarded his PLB in the course of the snap check could be his witness. COM did not dispute the ticket and had settled it before lodging his complaint.

PC A flatly denied COM's allegation and claimed that he had never treated COM rudely as alleged. He stated that throughout the incident, he was the only officer on board COM's vehicle. Sergeant B (SGT B), who came forward to mediate the case at a later stage, confirmed that the other two officers at the scene were at the material time engaged in their own duties and did not participate in the checking of COM's vehicle with PC A, and he did not witness how PC A returned the driving licence together with the ticket to COM. CAPO subsequently tried to locate the passengers on board COM's vehicle at the material time by visiting the PLB stand but to no avail.

This was a one-against-one case. COM's allegation was denied by PC A and there was no independent witness or other corroborative evidence to support either side's version. Under the circumstances, the allegation of 'Rudeness' was classified as 'Unsubstantiated'.

False

3.7 A 'False' complaint is one:

where there is sufficient reliable evidence to indicate that the allegation made by the complainant is untrue, be it -

- (a) a complaint with clear malicious intent; or
- (b) a complaint which is not based upon genuine conviction or sincere belief but with no element of malice.

3.8 When a complaint is classified as 'False', CAPO will consider, in consultation with the Department of Justice as necessary, prosecuting the complainant for misleading a police officer.

Prosecution, however, will not be taken where there is no malicious intention on the part of the complainant.

Example

Police Constable A (PC A) saw the complainant (COM) walking across the road without using a nearby footbridge. PC A intercepted COM and informed him that he would be summonsed for 'Jaywalking'. Upon receiving the summons, COM lodged a complaint of 'Fabrication of Evidence' against PC A alleging that the latter fabricated evidence to summons him as he was in fact riding on a bicycle and not walking across the road at the material time.

COM raised the same allegation in court but the Magistrate accepted PC A as an honest witness whose evidence reflected the truth and did not believe in COM's version. The Magistrate commented in his verdict that if COM had ridden on a bicycle across the road at the material time, PC A could have prosecuted him for other more serious offences. After trial, COM was convicted of the charge of 'Crossing within 15 metres of footbridge' and fined \$800.

As COM's complaint was deemed fully resolved in court, the allegation of 'Fabrication of Evidence' was classified as 'False'.

No Fault

3.9 An allegation is classified as 'No Fault':

where the allegation is made either because of a misinterpretation of the facts or a misunderstanding; or when there is sufficient reliable evidence showing that the actions of the officer concerned were fair and reasonable in the circumstances, done in good faith and conformed with the requirements stipulated in Section 30 of the Police Force Ordinance, Cap. 232, Laws of HKSAR.

3.10 Two common reasons for classifying a complaint as 'No Fault' are first, the complainant may have misunderstood the fact, and second, the complaine is acting under instruction from a superior officer or in accordance with an established police practice.

Example

The complainant (COM) was the defendant in a 'Theft' case, in which male A was the victim and male B was the prosecution witness. On the material day, male A was sleeping on a platform outside the Hong Kong Cultural Centre with his pair of shoes left on the ground. Male B saw COM attempting to steal male A's portaphone but to no avail. COM then stole the shoes and walked away. When male B shouted at COM, he immediately threw away the shoes and ran. Males A and B chased and stopped COM in the vicinity. A report was made to the Police. Eventually, COM was arrested and charged with 'Theft'. During the trial, COM pleaded guilty and admitted the brief facts of the case. He was convicted and fined. Five months later, he applied for an appeal against conviction but his application was rejected. He then lodged a complaint against Detective Senior Inspector X (DSIP X) alleging that the latter should not believe in the versions of the witnesses and seize the shoes as exhibit ('Neglect of Duty'). He said that he pleaded guilty to the charge only because he did not want the trial Magistrate to impose a heavier sentence on him if he denied the charge.

DSIP X denied the allegation. He contended that having examined all the evidence available during the crime investigation, he concluded that there was sufficient evidence to lay the charge against COM, who made no complaint throughout the enquiry. After investigation, CAPO found that DSIP X's decision to charge COM was justified and appropriate, as evidenced by COM's conviction. In the circumstances, CAPO considered that the allegation was judicially resolved and accordingly classified it as 'No Fault'.

Withdrawn

3.11 A complaint is classified as 'Withdrawn':

where the complainant does not wish to pursue the complaint made.

3.12 A complainant's withdrawal does not necessarily result in the case being classified as 'Withdrawn'. The IPCC and CAPO will examine the available evidence to ascertain whether a full investigation is warranted despite the withdrawal.

Example

The complainant (COM) was caught red-handed for stealing a handbag from a woman who was having tea with her family in a restaurant. He was arrested by the Police for the offence of 'Theft' and Detective Police Constable X (DPC X) took a Record of Interview (ROI) from him. Under caution, COM confessed that he stole the handbag out of greed. After he was charged with the offence, COM lodged a complaint of 'Threat' alleging that during the taking of the ROI, DPC X threatened to beat him up if he did not admit the offence.

After the trial, COM was convicted on his own guilty plea and was sentenced to six months' imprisonment. After the conclusion of the trial, CAPO interviewed COM at the prison to obtain details of his complaint. COM unequivocally expressed his decision to withdraw his complaint without giving any explanation. His withdrawal was verified by a staff of the Correctional Services Department. The allegation of 'Threat' was classified as 'Withdrawn'.

Not Pursuable

3.13 A complaint is classified as 'Not Pursuable':

where the identity of the officer(s) being complained against cannot be ascertained; or where there is insufficient information to proceed with the investigation; or when it has not been possible to obtain the co-operation of the complainant to proceed with the investigation, e.g. when the complainant declines to make a statement.

3.14 The definition does not mean that when the complainant cannot identify the complaine, no further action will be taken. CAPO will still make an effort to identify the complaine(s) on the basis of the information available. Only after such an effort has produced no result will a conclusion be reached that the identity of the complaine cannot be ascertained.

3.15 If a complaint has been classified as 'Not Pursuable' because of the complainant's refusal to give a statement, he may reactivate it later by giving a statement, after which an investigation will be conducted.

Example

The complainant (COM), who was arrested for 'Possession of Dangerous Drugs' outside a disco, lodged a complaint of 'Fabrication of Evidence' against Sergeant A (SGT A) for picking up a packet containing suspected dangerous drugs from the ground near her left foot and claiming that the packet belonged to her. The manager of the disco informed the Police that the CCTV tape outside the entrance of the disco at the material time had been erased. After the trial, the court acquitted COM on the benefit of the doubt.

SGT A denied the allegation. The complaint investigation officer sent two letters to COM in order to seek the latter's assistance in the investigation but the letters met with no response. Without the assistance of COM, the investigation of the complaint could not be proceeded with. The allegation of 'Fabrication of Evidence' was therefore classified as 'Not Pursuable'.

Curtailed

3.16 A complaint is classified as 'Curtailed' :

where a complaint has been registered with CAPO but on the authorization of the Chief Superintendent (Complaints and Internal Investigations Branch), is curtailed, i.e. not to be investigated further, owing to special circumstances such as known mental condition of the complainant.

Example

The complainant (COM) had mental problem and was a client of a social service centre. One day, COM entered a classroom of the centre where a lesson was underway but he was not a student of the class. As COM caused trouble and disrupted the class, staff of the centre removed him from the classroom and a dispute arose. COM then dialed '999' to call for assistance from the Police.

In response to COM's report, Police Constable X (PC X) was deployed to the scene. Later, COM lodged a complaint alleging that PC X failed to show him his police warrant card ('Neglect of Duty') and did not allow him to go to the toilet ('Unnecessary Use of Authority').

PC X stated that he did show his warrant card to COM upon request, although this was not witnessed by any staff of the centre. Besides, PC X said that during the enquiry, COM requested to go to the toilet but his request was refused by staff of the centre.

After the incident, COM was admitted to the psychiatric ward of a hospital. The doctor in charge of COM's case said that COM refused to disclose his medical condition and his tentative date of release from the hospital. Besides, COM also declined to be interviewed by the CAPO investigator. Since CAPO could not have access to COM, it was impracticable for it to complete the investigation into COM's complaint against PC X.

Given COM's mental condition, Chief Superintendent (Complaints and Internal Investigations Branch) finally approved the curtailment of CAPO's investigation into the complaint case. The allegations of 'Neglect of Duty' and 'Unnecessary Use of Authority' were classified as 'Curtailed'.

Informally Resolved

- 3.17 The Informal Resolution (IR) scheme aims at a speedy, satisfactory resolution of very minor complaints such as impoliteness during the ticketing of traffic offence.
- 3.18 A minor complaint suitable for IR will not be subject to a full investigation. Instead, a senior officer at least at the Chief Inspector of Police rank in the complainee's division will act as the Conciliating Officer (CO). The CO will make enquiry into the facts of a complaint by talking with the complainant and complainee separately. If he is satisfied that the matter is suitable for IR and if the complainant agrees, the complaint will be informally resolved.
- 3.19 The IR scheme cannot be used in the following circumstances:
 - (a) the allegation is about unjust refusal of bail which amounts to a loss of personal freedom;
 - (b) the complainant does not agree to the complaint being dealt with by IR;
 - (c) criminal or disciplinary charges might ensue; or

- (d) there is a significant conflict of testimony between the complainant and the complainee. (The CO would formulate his judgement as to the facts and decide whether IR, or the normal full investigation, should be carried out.)

Example

The complainant was questioned and searched by the complainee while chatting with a friend around mid-night in a park. He alleged that the complainee was impolite to him during the questioning and search and treated him like a criminal. In view of its minor nature, the complaint was considered suitable to be dealt with by 'Informal Resolution'.

After being explained of the aim of 'Informal Resolution' by the Conciliating Officer, the complainant agreed to have his complaint resolved informally. The complainee was interviewed by the Conciliating Officer. He was reminded to act professionally when discharging his duties and to treat members of the public with courtesy.

Sub-judice

3.20 A sub-judice complaint is a complaint related to a matter pending prosecution in court. It will be dealt with by a set of special procedures of which the main principles and features are:

- (a) the basic facts of a complaint including the time, date, location and nature of the allegation(s) and the identity of complainees should be established as soon as possible;
- (b) a complainant may choose to either give a statement (which will not be under caution) or give the basic facts of his complaint orally or lodge a complaint but defer the disclosure of detailed information until the court hearing of the case against him has been completed;
- (c) where the basic facts of the complaints are disclosed, CAPO will carry out a preliminary enquiry irrespective of whether any written statement has been provided by the

complainant;

(d) the preliminary enquiry may include, among other things, scene visit(s) and identifying and interviewing independent witnesses;

(e) where the identity of complainee(s) is in dispute or there is prima facie evidence to suggest criminal or disciplinary proceedings are likely to be pursued, identification parades should be conducted as soon as practicable;

(f) on completion of preliminary enquiry, if CAPO considers that the complaint is sub-judice and there is no other evidence which makes it necessary to continue with the investigation in the interest of justice and the complainant has indicated unequivocally that he wishes his complaint to be treated as sub-judice, the complaint investigation will be suspended;

(g) nevertheless, complaint investigation will proceed as normal if the case falls within the following circumstances

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(i) the complaint does not concern matters which will impinge on the Court's prerogative; or

(ii) the complaint is serious and there is sufficient evidence or some other good reasons to suggest that it is likely to be substantiated; or

(iii) there is indication of police misconduct sufficient to justify interference with the prosecution; or

(iv) where the complainant unequivocally requests that his complaint be investigated and not be treated as sub-judice and CAPO considers it reasonable and appropriate to carry on the investigation; or

(v) it is in the interest of justice that the complaint be investigated sub-judice; or

(vi) investigation can proceed in-part for the preservation of evidence including the conduct of identification parades;

In case of doubt, advice from the Department of Justice will be sought;

(h) albeit investigation is suspended until the completion of the legal proceedings against the complainant, steps will be taken to preserve exhibits and documentary evidence for any future investigation; and

(i) upon completion of the legal proceedings against the complainant, CAPO will conduct a review. If it is considered that the results of the court case or matters arising from the court proceedings have in effect finalized the complaint and that no further investigation is necessary, a final report will be submitted to the IPCC. If it is considered that the complaint should be investigated, the complainant will be contacted for a full statement so that full investigation can be conducted.

3.21 When an investigation is suspended under the sub-judice procedures, CAPO will furnish a report to the IPCC. The IPCC will be provided with a final report after the conclusion of the court case and, where necessary, the completion of further investigation.

Example

The complainant (COM), a secondary school student, was arrested for 'Claiming to be a Member of Triad Society'. He alleged that when he was taken to the police station, two police officers punched his head and neck in the police vehicle (i.e. 'Assault') with a view to inducing his confession. COM agreed to have his complaint handled by sub-judice procedures and refrained from giving details of his complaint. CAPO suspended investigation pending court trial.

COM was subsequently convicted of three counts of 'Inviting a Person to become a Member of Triad Society', one count of 'Claiming to be a Member of Triad Society' and three counts of 'Criminal Intimidation'. He was sent to a rehabilitation centre. After trial, COM withdrew his complaint.

Others

3.22 As a verdict on a complaint, the classification is no doubt the single most important aspect monitored and reviewed by the IPCC. However, the importance of the classification should not deflect attention from the ultimate objectives of the complaint system, which are to:

- (a) give the complainant a fair, reasonable and clear reply on the outcome of his complaint; and
- (b) recommend remedial action (including legal or disciplinary action where appropriate) to prevent any police action which would cause justified grievance.

3.23 The IPCC monitors and reviews all complaints, including those classified as 'Withdrawn', 'Not Pursuable' and 'Informally Resolved'. Even where the complainants themselves have withdrawn their cases, the IPCC has to ensure that reasonable effort has been made by CAPO to get at the truth, that no undue influence has been exerted on the complainants and that any lessons which can be learnt are learnt and remedial actions taken accordingly. CAPO is also required to submit regularly summaries of 'Non-Reportable Complaints' to the IPCC to ensure that every reportable case of complaint against the Police will be monitored by the IPCC.

Chapter 4 General Review of Statistics on Complaint Cases Endorsed by the IPCC

Number of Complaints

- 4.1 In 2005, CAPO registered the receipt of 2,719 complaints, representing a decrease of 15.4% over the figure of 3,215 for 2004. The number of complaints (Note: a complaint may consist of more than one allegation) received and registered by CAPO in 2003, 2004 and 2005 and the avenues through which these complaints were received are shown in Appendices IV and V respectively.

Nature of Allegations

- 4.2 All complaints received and registered by CAPO are categorized by the nature of the allegations. Where there are several allegations in a complaint case, the more serious one will be taken as the principal allegation and the case is generally categorized as such. Appendix VI illustrates the categorization of complaints received by CAPO in 2003, 2004 and 2005 according to the nature of allegations. The five major areas of complaints against the Police in 2005, in descending order, were 'Neglect of Duty' (35.3%), 'Misconduct/Improper Manner/Offensive Language' (31.6%), 'Assault' (19.9%), 'Unnecessary Use of Authority' (5.3%) and 'Fabrication of Evidence' (4.2%).

Number of Investigation Reports

- 4.3 In 2005, the IPCC received a total of 2,983 investigation reports from CAPO, a decrease of 9.1% over the preceding year in which 3,281 reports were received. A table showing the progress on the processing and endorsement of CAPO investigation reports as at 31 December 2005 is at Appendix VII.
- 4.4 In 2005, the IPCC endorsed a total of 2,828 investigation reports of which 213 were carried over from the previous years, involving

4,695 allegations. The respective number of allegations by category for cases concluded in 2003, 2004 and 2005 and the percentage distribution of these allegations are shown in Appendix VIII. Allegations of 'Assault', 'Misconduct/Improper Manner/Offensive Language', 'Neglect of Duty', 'Unnecessary Use of Authority' and 'Fabrication of Evidence' accounted for 95.5% of the total figure in 2005.

Queries Raised with CAPO

4.5 A total of 541 queries/suggestions were raised with CAPO in respect of cases endorsed in 2005, of which 381 were accepted by CAPO and 160 were met with satisfactory explanations by CAPO. More details are given in Chapter 5.

Results of Investigations and Substantiation Rates

4.6 The results of investigations endorsed by the IPCC in 2003, 2004 and 2005 together with the percentage distribution are at Appendix IX.

4.7 In 2005, 902 out of 4,695 allegations were resolved by IR. Of the remaining 3,793 allegations, 66 were classified as 'Substantiated', 79 'Substantiated Other Than Reported', 8 'Not Fully Substantiated', 854 'Unsubstantiated', 244 'False', 271 'No Fault', 25 'Curtailed', 1,385 'Withdrawn' and 861 'Not Pursuable'. Allegations which were 'Curtailed', 'Withdrawn', 'Not Pursuable' or 'Informally Resolved' were normally not fully investigated.

4.8 The substantiation rate in relation to the 1,522 fully investigated allegations in 2005 was 10.1%, a breakdown of which is appended below:

Classification	No. of Allegations Endorsed	Substantiation Rate(s)
Substantiated	66	4.3%
Substantiated Other Than Reported	79	5.3%
Not Fully Substantiated	8	0.5%
Total	153	10.1%

- 4.9 Since substantiating a complaint requires clear evidence or convincing justifications, the IPCC has to examine each individual complaint thoroughly and impartially to uphold fairness to both the complainants and the complainees. It must be stressed that substantiation rates should not be regarded as a yard-stick in assessing the effectiveness of the police complaints system.
- 4.10 The substantiation rates in relation to fully investigated allegations endorsed by the Council in 2003, 2004 and 2005 are shown in Appendix X.
- 4.11 A table showing the breakdown of the results of investigations, by each category of allegations, endorsed by the IPCC in 2005 is at Appendix XI.

Follow-up Action Taken on Investigation Results

- 4.12 Criminal/disciplinary proceedings or internal actions were taken against 173 police officers on the 'Substantiated', 'Substantiated Other Than Reported', and 'Not Fully Substantiated' cases in 2005, subsequent to the endorsement of the results of investigations by the IPCC. The criminal/disciplinary proceedings and internal actions taken against police officers on the cases endorsed in the years 2003, 2004 and 2005 are at Appendix XII. The Police Force will also take remedial action to rectify procedural weaknesses revealed in the course of investigating complaints.
- 4.13 A complainant making a false allegation with clear intent of malice is liable to prosecution. In 2005, two complainants were charged for making a false complaint on the complaint cases endorsed in the year.

Classification Changes

- 4.14 As a result of the IPCC's queries, the results of investigation in respect of 64 complaint allegations were changed in 2005.

Suggested Improvements to Police Procedures and Practices

4.15 In 2005, the IPCC made a number of suggestions to improve police procedures. Some of the more significant ones are described below:

- (a) In examining a complaint lodged by an illegal immigrant from the Mainland, the IPCC noticed that there was no provision in the police procedures regarding the use of simplified Chinese characters in recording statements. As Mainlanders were often not conversant with traditional Chinese characters, this might become a ground to overturn the validity of a cautioned statement on the excuse that the interviewee was unable to read the recorded statement. The IPCC therefore suggested CAPO to explore the feasibility of recording statements in simplified Chinese characters or using video-recorded interview, as appropriate, when the interviewee was unable to read traditional Chinese characters.

The Police replied that they had reviewed the procedures to be followed when Mainlanders and foreign nationals are interviewed under caution. New instructions detailing the procedures for taking a statement from a suspect/ witness who is unable to read traditional Chinese characters were issued to all major Formation Commanders.

- (b) While scrutinizing a complaint which involved the arrest and detention of an overstayer, the IPCC noted that the Standing Order issued by the Formation Commander of the police station concerned did not provide a clear guideline on the level of search to be carried out on a detained person. It was also noted that there were loopholes in the existing arrangement for handling detainees' properties which provided the detainees with an opportunity to access their paraphernalia temporarily kept by the Police. The IPCC therefore requested the Police to look into the matters and revise the relevant Standing Orders as appropriate.

The Police replied that the Formation concerned had issued a new Standing Order to give clear instructions on the level of search to be carried out on detainees, and the

arrangement for handling detainees' properties.

- (c) A complainant lodged a complaint against the Police as she could not redeem her stolen properties from two pawnshops after the conclusion of her theft case. The IPCC was of the view that the Police's current procedures in handling stolen properties that were pawned were unclear and piecemeal. In order to avoid a recurrence of similar complaints in future, the IPCC suggested the Police to review its procedures for handling stolen properties that were pawned.

The Police informed the IPCC that they would conduct a review on the police procedures for handling stolen properties retrieved from pawnshops, and amend the relevant provisions in the Force Procedures Manual as appropriate.

- (d) The complainant was the victim of a deception case. He alleged that he was not notified of the date of the hearing which had deprived him of the opportunity to pursue his deceived money in the criminal court. The IPCC noticed that the 'Victim's Charter' requires the Police to inform the victim of the hearing date, and that if the victim had indicated to the Police his intention to seek compensation from an arrested person, the fact should be recorded in the statement and brought to the attention of the court prosecutor. However, such requirements were not incorporated into the Force Procedures Manual. The IPCC therefore requested the Police to review the existing police orders and working guidelines to bring them in line with the provisions of the 'Victim's Charter'.

The Police replied that they had reviewed and amended the relevant provisions in the Force Procedures Manual to bring them in line with the requirements of the 'Victim's Charter'.

Chapter 5 Monitoring and Review of the Handling of Complaints

Introduction

5.1 The IPCC's role in monitoring and reviewing CAPO's work has been described in Chapter 2. This Chapter illustrates how the IPCC performs its role in a proactive way and highlights its achievements in reviewing individual complaints and police procedures.

Major Categories of Queries/Suggestions Raised with CAPO

Nature of Queries/Suggestions	No. of Queries/ Suggestions in 2005	Accepted	Satisfactorily Explained/ Followed up
(a) Thoroughness of investigation and clarification on ambiguous points in the CAPO reports/CAPO files	342	230	112

The IPCC is primarily concerned with the comprehensiveness and impartiality of the investigations carried out by CAPO. To ensure that a complaint has been thoroughly examined, the IPCC may suggest further interviews with the complainant(s), complainee(s) and/or witness(es); scene visits or the seeking of further medical or legal advice, etc. The IPCC may also propose addition, deletion or amendment to allegations made against police officers, the complainant list, the complainee list and the content of the reports.

Nature of Queries/Suggestions	No. of Queries/ Suggestions in 2005	Accepted	Satisfactorily Explained/ Followed up
(b) Appropriateness of classifications	93	64	29
<p>In examining the evidence available, the IPCC may discuss with CAPO on the re-classifications of results (from a higher to a lower classification or vice versa). Proposals to add 'Substantiated Other Than Reported' counts may also be made.</p>			
(c) Compliance with police procedures and practices	1	1	0
<p>Queries are raised by the IPCC with CAPO from time to time to ascertain if the police officers involved in a complaint case have complied with the relevant police procedures and practices in exercising their constabulary powers, although the complainant may not have raised a specific complaint.</p>			
(d) Improvement to police procedures	9	4	5
<p>Suggestions on improvement to police procedures which are complaint-inducing are made where appropriate by the IPCC to the Force. For details, please refer to Chapter 4, para. 4.15.</p>			
(e) Other queries	96	82	14
Total	541	381	160

5.2 The Commissioner of Police has full discretion in the imposition of disciplinary action on police officers. The IPCC may, however, comment on the proposed disciplinary action such as whether it is commensurate with the gravity of the offence. In a number of 'Unsubstantiated' cases, the IPCC took the initiative to recommend

that the officers concerned be advised to make improvements, such as the exercise of more common sense and tact in dealing with members of the public, compliance with the provisions of the relevant Police General Orders and/or Police Headquarters Orders, making adequate notebook entries, etc.

- 5.3 The Council commented on the proposed disciplinary action/advice for the police officers concerned on 18 occasions in 2005. Of these, 14 were accepted and 4 were satisfactorily explained and followed up by CAPO.
- 5.4 The number and nature of queries/suggestions raised by IPCC in 2003, 2004 and 2005 are listed in Appendix XIII.

Chapter 6 Cases of Interest

Reason for Reporting Individual Cases

- 6.1 The earlier Chapters, in particular, Chapters 2 and 3 have described in detail the framework, procedures and the major factors affecting IPCC's deliberations. This Chapter gives an account of actual cases which the Council considered would be of interest to the general public.

Selection of Cases for Reporting

- 6.2 This Chapter presents summaries of 14 selected cases. They aim at giving the readers a glimpse of the efforts of the investigating officers, the contributions of the Council and the various factors taken into account in classifying a complaint. These cases are sampled from the more 'controversial' ones where the IPCC and CAPO may not necessarily be in agreement over the interpretation of evidence or even the findings of an allegation. Hopefully, these cases would highlight the fact that investigation reports are always vigorously vetted by the IPCC in an independent and impartial manner.

Anonymity

- 6.3 In the following summaries, the persons involved will remain anonymous for reasons of personal privacy. To minimize the probability of their being identified, details such as date, time and place of the incidents have been omitted unless these are absolutely necessary for a better understanding of the case.
- 6.4 The case summaries are prepared on the basis of the investigation reports endorsed by the Council in 2005 and reflect the position as at the end of the year.

Case Summaries

Case 1

Unnecessary Use of Authority - No Fault

Unnecessary Use of Authority - No Fault

Neglect of Duty - Substantiated

Neglect of Duty - No Fault

Neglect of Duty - Substantiated Other Than Reported

Neglect of Duty - Substantiated Other Than Reported

6.5 A series of 'Theft' cases occurred in which the culprit(s) presented an identity card (ID card) bearing the name and ID number of the complainant (COM) when the culprit(s) obtained employment with the victim companies. These cases were reported to different Formations as they occurred in different districts. COM was invited to attend Police Station A to assist enquiry into one of these 'Theft' cases, and the suspicion on him was basically cleared after enquiry. However, noting that COM was 'wanted' by two other Formations for two similar cases, Police Station A arrested COM, and escorted him to Police Stations B and C respectively. About two weeks later, COM was also arrested by Police Station D when he assisted enquiry into yet another similar 'Theft' case. COM was eventually released unconditionally when the subsequent police investigation revealed that he was not connected with all these 'Theft' cases.

6.6 Being dissatisfied with the way the Police handled the cases, COM lodged two allegations of 'Unnecessary Use of Authority', and one allegation of 'Neglect of Duty' with CAPO. COM complained that Station Sergeant W (SSGT W) and Sergeant X (SGT X) unnecessarily handcuffed him while he was escorted to Police Stations B and C ('Unnecessary Use of Authority'); and that Detective Police Constable Y (DPC Y) unnecessarily took photographs of him, and obtained his fingerprints after he was arrested in Police Station D ('Unnecessary Use of Authority'). COM also complained that the Police should not have arrested him repeatedly as they should be aware that his lost ID card was repeatedly used by the culprit(s) to commit crime ('Neglect

of Duty’).

6.7 CAPO considered that it was reasonable for SSGT W and SGT X to believe that COM was likely to escape, as he was ‘wanted’ by more than one Formation, and the officers’ authorization to handcuff COM was in accordance with the relevant provision laid down in the Police General Orders (PGO). CAPO also noted that taking photographs and fingerprints of an arrested person was a procedural requirement stipulated in the Force Procedures Manual (FPM) and PGO. Hence, CAPO classified the two allegations of ‘Unnecessary Use of Authority’ as ‘No Fault’.

6.8 As regards the allegation of ‘Neglect of Duty’, CAPO’s investigation revealed that there was negligence on the part of the Officers-in-charge of the different ‘Theft’ cases (OC Cases) and the Crime Wing Headquarters. In addition, CAPO also examined the responsibility of the Criminal Record Bureau (CRB) in this allegation. CAPO’s investigation was as follows:

(a) all the OC Cases were aware that COM was ‘wanted’ by different Formations for similar cases at different stages of their investigation, and that none of these cases had been detected. However, they failed to consider consolidating the cases according to the general rule laid down in the FPM. Moreover, when they subsequently knew that COM’s lost ID card was fraudulently used by the culprit who was still at large, they failed to consider seeking COM’s consent to have the details of his ID card entered in the Police Force’s computer system in accordance with the FPM to avoid wrongly arresting COM again;

(b) there was a provision in the FPM guiding the handling of crimes involving the fraudulent use of a lost or stolen ID card in different Formations and the subsequent consolidation of cases, but the Crime Wing Headquarters failed to update that FPM; and

(c) according to the FPM, CRB staff should inform the OC Cases when the same person was ‘wanted’ by more than one Formation so as to facilitate a consolidation of cases. However, this

requirement did not apply in the instant case as none of the OC Cases had sought to obtain COM's consent to include the details of his lost identity card in the police computer system for CRB to follow up.

- 6.9 After investigation, CAPO split this allegation of 'Neglect of Duty' into two by classifying it as 'Substantiated' against the OC Cases and Crime Wing Headquarters, and 'No Fault' against the CRB. The OC Cases were advised without an entry in their divisional record files of the need to consider the consolidation of cases, and to be more prudent in handling similar situations in future. The Crime Wing Headquarters had already been advised to update the relevant provision in the FPM.
- 6.10 CAPO's investigation also revealed that SGT X failed to make a record in his notebook of his authorization of the use of handcuff transport belt on COM, while Police Constable Z (PC Z) failed to record in his notebook the use and removal of the handcuff transport belt on COM. An additional 'Substantiated Other Than Reported' count of 'Neglect of Duty' was therefore registered against SGT X and PC Z respectively. They were advised without an entry in their divisional record files of the need to make police notebook entry in similar situations in future.
- 6.11 The IPCC concurred with CAPO's investigation results. In view of the innocence and sufferings of COM in the incident, for the sake of quality service, the IPCC suggested CAPO to offer an apology in the reply letter to COM regarding the use of handcuff on him, and to assure COM of no recurrence of a similar incident to him in respect of his lost ID card by updating the relevant police records. In response, CAPO included the IPCC's suggestions in its reply to COM. The Council agreed with CAPO's follow-up actions and endorsed the case.
- 6.12 In addition, given the unfortunate experience of COM in this complaint, the IPCC was also concerned how the Police would address the problem of a genuine cardholder, whose lost or stolen identity card had been unlawfully used, from being

repeatedly arrested in future. In response, CAPO reiterated that existing police procedures in respect of lost or stolen ID cards unlawfully used were sufficient to distinguish whether the ID card was 'wanted', and to identify if the cardholder was the rightful owner. If OC Cases followed the relevant provisions in the procedures, and obtained the consent of the genuine cardholder to have the details of his ID card entered in the Police Force's computer system, the genuine cardholder would be removed from the 'wanted list'. Nonetheless, if relevant information (such as the 'Date of Issue') of the lost or stolen ID card was not revealed during the crime investigation, an arrest might still be unavoidable as there was no ready means to remove the suspicion against the genuine cardholder. The IPCC noted CAPO's views on the Police's handling of this type of cases.

Case 2

Impoliteness - Informal Resolution

Misconduct - Informal Resolution

Misconduct - Substantiated

Misconduct - Unsubstantiated

- 6.13 The complainant (COM) was involved in a traffic accident. Senior Police Constable X (SPC X), the investigating officer, contacted COM by phone to enquire about the case. Two hours after his telephone conversation with SPC X, COM approached the traffic accident investigation office direct, and requested to give a statement. Senior Police Constable Y (SPC Y) was assigned to interview COM and take the statement. COM alleged that SPC X talked to him in an impolite manner ('Impoliteness'), and induced him to settle the case with the other party ('Misconduct') during the telephone conversation. COM also alleged that SPC Y asked him irrelevant questions with a bad attitude, and persistently hit a stapler on the desk during the statement-taking ('Misconduct'). COM also complained that SPC Y swore at him with lip language ('Misconduct'). COM had recorded his conversation with SPC Y and produced the relevant voice recording to CAPO in support of his complaint.
- 6.14 Regarding the first two allegations against SPC X ('Impoliteness' and 'Misconduct'), COM agreed to resolve them by way of Informal

Resolution (IR) in person. After the IR interview, SPC X, who denied the allegations, was reminded by the Conciliating Officer of the importance of service quality when handling public report and enquiry.

6.15 Regarding the third allegation of 'Misconduct' of hitting the stapler and asking COM irrelevant questions, SPC Y explained that when he tried to attach the photographs given by COM to the traffic case file, he found the stapler out of order, and therefore hit it on the desk to take out the twisted staples. CAPO noted from the voice recording provided by COM that SPC Y did not ask irrelevant questions, but the officer did persistently hit the stapler on the desk for about 30 seconds. Although COM had asked SPC Y to stop hitting the stapler, SPC Y seemed to ignore his request, and insisted that the stapler was out of order. CAPO also observed that COM in fact behaved very emotionally and was swearing at SPC Y. After investigation, CAPO was of the view that the patting sound of the stapler did cause annoyance to COM who was getting more emotional. SPC Y, being an experienced officer with 24 years of service in the Force, should be aware of COM's state and stop hitting the stapler. Moreover, SPC Y should consider changing a new stapler, or attaching the photographs after the statement-taking, which CAPO found no urgency to do so in the circumstances. CAPO considered SPC Y's action inappropriate and unnecessary and classified this allegation of 'Misconduct' as 'Substantiated'. SPC Y was to be advised, without an entry in his divisional record file, to be more prudent in handling members of the public in future. In the absence of corroborative evidence to support that SPC Y had used lip language to swear at COM, CAPO classified the last allegation of 'Misconduct' as 'Unsubstantiated'.

6.16 The IPCC concurred with CAPO's investigation results. Upon examining the voice recording provided by COM, the IPCC agreed with CAPO that SPC Y was handling a rather difficult and emotional customer. However, the IPCC noted that the tone SPC Y used, and the questions he posed to COM during the statement-taking could be perceived by a sensitive or emotional person as unfriendly or provoking although SPC Y did not speak impolitely. CAPO was therefore requested to consider giving an advice to SPC Y in this respect. In response, CAPO treated this issue as an outwith matter (i.e. a matter which has been disclosed in the course of the complaint investigation but is not closely related to the complaint), and SPC Y was to be advised of the need to be more sensitive and tactful when dealing with similar clients in future.

- 6.17 The Council agreed with CAPO's follow-up action and endorsed the case.

Case 3

Neglect of Duty - Not Fully Substantiated

Neglect of Duty - Unsubstantiated

Neglect of Duty - Unsubstantiated

- 6.18 The complainant (COM) made a report to the Police that he found an abandoned stone pillar (the metal signage of the stone pillar bore the logo of the Housing Department (HD) with a notice for impounding illegally parked vehicles in Housing Estate X) in an open-spaced carpark at Housing Estate Y. The Police then took away the stone pillar for further action and classified the case as 'Found Property'. About three months later, COM received a letter from the Police requesting him to claim the stone pillar. COM found it unreasonable and lodged a complaint of 'Neglect of Duty' against the officers who handled his case (Station Sergeant A (SSGT A) and Assistant Clerical Officer B (ACO B)). COM later added another allegation of 'Neglect of Duty' against the investigating officer of COM's complaint (Senior Inspector C (SIP C)), for failing to respond to his request to conduct an Informal Resolution (IR) interview for his complaint after midnight.

- 6.19 Regarding the first allegation of 'Neglect of Duty', CAPO's enquiry revealed that efforts had been made by SSGT A and ACO B to locate the 'owner' of the stone pillar by liaising with the property management companies of Housing Estates X and Y. CAPO noted that the HD had transferred its management duties of the estates to private companies for some years, and the stone pillar was likely left behind by the HD during the change-over. However, the two management companies denied ownership of the stone pillar, and gave up their right to claim it back. According to established police procedures, if a found property remained unclaimed after three months, the finder should be informed that he might claim the property. Since no party claimed the stone pillar after COM had made the found

report for three months, SSGT A instructed ACO B to seek COM's stance as to whether COM would like to claim the stone pillar. SSGT A and ACO B had explained to COM about the unclaimed status of the stone pillar, and the police procedures in obtaining COM's stance before disposing of the stone pillar. CAPO considered that the officers had acted in accordance with relevant police procedures. Nevertheless, since COM, as a member of the public, might not fully understand these procedures, CAPO classified the allegation against SSGT A and ACO B as 'Unsubstantiated'. For the other allegation of 'Neglect of Duty', SIP C stated that he had never told COM about arranging an IR interview because COM refused to resolve his complaint by IR. In the absence of corroborative evidence to support either side's version, CAPO classified this allegation as 'Unsubstantiated'.

6.20 Upon examination of the complaint, the IPCC had reservation on the appropriateness of the Police's action in handling the abandoned stone pillar. The IPCC made the following observations on the first 'Neglect of Duty' allegation, and suggested CAPO to re-consider its classification:

- (a) members of the public would naturally perceive a stone pillar bearing the logo of HD as a government property. Under such circumstances, the Police action of requesting a member of the public (COM) to claim a government property (HD's stone pillar) was certainly odd and unreasonable;
- (b) since the stone pillar in question was not an ordinary found property, the existing procedures in handling a found property were not applicable in COM's case. Under this exceptional situation, the officers should have exercised their common sense and judgment, rather than blindly followed the standard procedures in considering a way to dispose of the stone pillar; and
- (c) if SSGT A had exercised more flexibility by not following the routine procedures or sought advice from his seniors on a suitable way to dispose of the stone pillar, this complaint would have been avoided. On the other hand, it would be unfair to expect a clerical officer as ACO B, whose main duty was to follow procedures, to deviate from the

standard practice.

- 6.21 In response, CAPO heeded IPCC's views and split the first allegation of 'Neglect of Duty' into two by re-classifying it as 'Not Fully Substantiated' and 'Unsubstantiated' against SSGT A and ACO B respectively. SSGT A was to be advised, without an entry in his divisional record file, to avoid any recurrence of similar incidents in future.
- 6.22 The Council endorsed the revised investigation result of the case.

Case 4

Misconduct - Unsubstantiated

Rudeness - Unsubstantiated

Neglect of Duty - No Fault

Unnecessary Use of Authority - Unsubstantiated

- 6.23 The complainant (COM) lived with her male friend (Mr A) at her residence, and the latter was allowed to use her private car. On the material day, COM was sick and stayed at home while Mr A drove her car to work without alerting her. Later that evening, COM discovered that the car key and her car were gone, and suspected that Mr A might have driven it away. She tried to contact him via his mobile phone but in vain. Feeling worried, COM made the aforesaid crime report to the Police. Shortly after, Mr A returned with COM's car. After clarification, the Police classified the case as 'Misunderstanding' and curtailed the investigation.
- 6.24 COM lodged the following allegations against the investigating officer of her case, Police Constable X (PC X) :
- (a)PC X misbehaved himself and uttered unnecessary remarks during the statement-taking process ('Misconduct');

- (b) PC X uttered words to COM rudely when he drove her to the carpark to pick up Mr A ('Rudeness');
- (c) PC X failed to inform COM of his UI number, and serve her a copy of her statement ('Neglect of Duty'); and
- (d) PC X tore off the sticker photo attached to the back of COM's occupant pass without her prior consent ('Unnecessary Use of Authority').

PC X denied all the allegations. In the absence of any corroborative evidence or independent witness to prove or disprove either side's version, CAPO classified allegations (a), (b) and (d) as 'Unsubstantiated'. As regards allegation (c), PC X stated that COM had never made such a request at the material time. CAPO observed that PC X wore his warrant card conspicuously throughout the investigation, and that should be sufficient for identification purpose. As regards the serving of the statement, PC X explained that COM, upon receipt of the occupant pass from Mr A, expressed that she was exhausted and left the station immediately after the statement-taking. Therefore he could not serve COM with a copy of her statement. Besides, CAPO observed that PC X had not contravened the relevant guideline of the 'Victim's Charter' concerning the serving of statement. CAPO therefore classified allegation (c) as 'No Fault'.

- 6.25 Upon examination of the complaint, the IPCC had reservations about the classification for allegation (d) 'Unnecessary Use of Authority' because COM had specifically alleged that PC X tore off a sticker photo (which contained the images of both COM and Mr A) from the back of her occupant pass without seeking her prior consent. The IPCC noted that COM asked for the return of her occupant pass and car key from Mr A after the statement-taking at the police station. Mr A complied and handed back the requisite items to COM through PC X. PC X claimed that it was Mr A who asked for the sticker photo on the occupant pass. Since COM raised no objection, PC X therefore detached the sticker photo from the occupant pass, and handed over the sticker photo to Mr A, and the occupant pass to COM respectively. Mr A however denied having said so, and stated that he only asked for the sticker photo after PC

X had torn it off in his and COM's presence. In the absence of other independent supporting evidence, CAPO classified the allegation as 'Unsubstantiated'.

6.26 The IPCC had reservation on PC X's act because PC X did not know who actually owned the sticker photo. Regardless of whether COM or Mr A had made a request for assistance, PC X should not have involved himself in this type of purely personal affair which would be more suitable for the involved parties to handle themselves. Even at their explicit request or if they had not raised any objection to it as claimed, PC X should refrain from doing so because the involved parties might change their mind and lodge a complaint later on, as happened in the instant case. For this reason, the IPCC invited CAPO to re-consider the 'Unsubstantiated' classification for allegation (d) 'Unnecessary Use of Authority'.

6.27 In response, CAPO maintained its stance, and argued that from a service quality point of view, it was not uncommon for police officers to do more than they were required to render assistance to members of the public when the actual circumstances so required. In the instant case, although COM eventually withdrew the crime report against Mr A, they might not have fully reconciled. Therefore, asking either one of them to remove the photo might have stirred up their emotion. It was therefore undesirable to leave the matter in their own hands, especially when they raised no objection to PC X's action at the material time.

6.28 Upon the IPCC's insistence, CAPO contacted COM again who confirmed that she did not object to PC X's act at the material time. That said, she remarked that it would be desirable for PC X to seek her consent in the first instance. Taking into account COM's confirmation and CAPO's original 'Unsubstantiated' classification for the allegation, the IPCC did not insist on revising the classification for the allegation of 'Unnecessary Use of Authority'. Nevertheless, the IPCC noted that while there were specific police guidelines on the handling of case/found/intestate property by police officers, there were no guidelines on the handling of personal property which were unrelated to an investigation by police

officers. Although the IPCC appreciated the Police's policy of encouraging frontline officers to remain flexible and take the initiative whenever circumstances so required, such initiatives must be exercised within the bounds of their authority and call of duties. Otherwise, frontline officers might place themselves in a vulnerable position and be susceptible to unwarranted complaints. CAPO noted the advice of the IPCC at the Joint IPCC/CAPO Meeting.

6.29 The IPCC endorsed CAPO's investigation result of this case.

Case 5

Unnecessary Use of Authority - No Fault

Assault - Unsubstantiated

Unnecessary Use of Authority - No Fault

Unnecessary Use of Authority - Not Pursuable

Unnecessary Use of Authority - Substantiated Other Than Reported

Neglect of Duty - Substantiated Other Than Reported

6.30 The complainant (COM) attended the court in answer to a summons of noise nuisance against her. As COM behaved abusively by causing noise nuisance in court, the Magistrate made a verbal order to temporarily detain her for two hours until she regained her composure. Woman Police Constable (WPC)s X and Y and Police Constable (PC) Z carried out the Magistrate's order and detained COM in a court cell. After the detention, COM re-appeared before the Magistrate and was granted bail.

6.31 About one month later, COM lodged a complaint with CAPO alleging that : (i) WPCs X and Y and PC Z had no reason to detain her in the court cell for about two hours on the material day ('Unnecessary Use of Authority'); (ii) PC Z pushed her arm once and WPCs X and Y grasped her hands while dragging her into the lift, causing injuries to her ('Assault'); (iii) WPC Y and a woman police officer unnecessarily conducted a strip search on her before placing her in the court cell ('Unnecessary use of Authority').

6.32 CAPO's investigation revealed that WPCs X and Y and PC Z acted upon the Magistrate's order and detained COM in the court cell. There was no fault on the part of the three police officers who only executed the court order. The first 'Unnecessary Use of Authority' allegation was therefore classified as 'No Fault'. Regarding the 'Assault' allegation, WPCs X and Y and PC Z denied the allegation. WPCs X and Y only admitted to having gently laid their hands on COM's shoulder when escorting her into the lift. CAPO classified the 'Assault' allegation as 'Unsubstantiated' because COM did not seek any medical treatment after the alleged assault. There was also no medical evidence to support her claim. WPCs X and Y's use of force could not be regarded as excessive in view of COM's admission of being emotional at the material time, and there was a possibility that COM had misinterpreted WPCs X and Y's action which only served as a signal to COM that she was under control. As for COM's allegations of 'Unnecessary Use of Authority' about the strip search conducted on her, CAPO classified them as 'No Fault' and 'Not Pursuable' respectively because WPC Y only acted upon her supervising officer's instruction while the identity of the woman police officer as mentioned by COM could not be ascertained.

6.33 CAPO noted that it was SGT A, WPC Y's supervisor, who instructed WPC Y to perform a strip search on COM. SGT A justified his decision to perform a strip search on COM so as to ensure that COM did not have any prohibited items such as a weapon or dangerous drugs in her possession before securing her in a cell. Having examined the circumstances of COM's case which only involved some minor misdemeanours in court, CAPO considered that SGT A's decision was inappropriate. As SGT A also failed to make a proper notebook record about the incident, two 'Substantiated Other Than Reported' counts of 'Neglect of Duty' were registered against SGT A. SGT A was to be defaulted for two disciplinary charges.

6.34 Having examined the case, the IPCC suggested CAPO to treat SGT A's instructing WPC Y to conduct a strip search on COM as a 'Substantiated Other Than Reported' count of 'Unnecessary Use of Authority' rather than 'Neglect of Duty' since the officer

had acted without justification and abused his authority in the incident. After re-consideration, CAPO adopted the IPCC's suggestion.

6.35 The IPCC endorsed CAPO's investigation result of this case.

Case 6

Misconduct - Substantiated

6.36 The complainant (COM), a teacher by profession, attended a selection interview for Auxiliary Police Constables. Before conducting a physical fitness test for all the candidates, including COM, in a classroom, SGT X checked their attire. Noting that COM wore trousers instead of shorts, contrary to the requirement notified to all candidates attending the physical test, Sergeant (SGT) X asked COM her profession. In response, COM told SGT X that she taught Physical Education. COM alleged that SGT X then said, 'You (COM) teach Physical Education? That's why today the quality of teachers is deteriorating! Do you think you are a teacher today? You are a student only! That's why there is a need for a benchmark test because of people like you My kid is taught by people like you and he knows nothing about examination!' COM stated that SGT X continued to scold her in front of other candidates for not wearing shorts.

6.37 COM completed the fitness test and was subsequently informed that she failed in the selection interview. COM then lodged a complaint with CAPO alleging that SGT X had insulted her profession in front of other candidates ('Misconduct').

6.38 Upon enquiry, SGT X denied having insulted COM's profession. He admitted having talked to COM at the material time about the requirement to wear shorts for the physical fitness test, but could not remember the exact wordings used in their conversation.

6.39 CAPO noted that ten other candidates were with COM in the classroom at the material time. Of the ten candidates, four gave statements to the Police. The four candidates were independent witnesses in COM's complaint case, and their versions generally corroborated with that of COM. Judging from the evidence offered by the four candidates, CAPO agreed that SGT X's conduct was far from satisfactory in that he should not have made critical and unnecessary remarks towards COM in public, even though she did not perform up to the required standard. As such, the 'Misconduct' allegation was classified as 'Substantiated'. SGT X was given a warning without an entry in his divisional record file on his misconduct. Regarding COM's allegation that her profession was insulted by SGT X's remarks, CAPO considered that it was only COM's personal perception and it would be inappropriate to draw a conclusion on this statement based on the 'Substantiated' classification.

6.40 The IPCC endorsed CAPO's investigation result of this case.

Case 7

Neglect of Duty - Not Pursuable

Neglect of Duty - Unsubstantiated

Impoliteness - Not Pursuable

Neglect of Duty - Substantiated Other Than Reported

6.41 The complainant (COM) drove her vehicle which collided with a taxi at a road junction. Police Constable (PC) X, who was responsible for investigating COM's traffic case, took a statement from COM. During the statement-taking, no sooner had PC X discovered that COM had driven her vehicle onto the road junction without observing the traffic light than he cautioned COM for 'Dangerous Driving'. COM then expressed her dissatisfaction that PC X had treated her unfairly and refused to continue with the statement-taking. She also refused to sign her statement and left.

- 6.42 COM lodged a complaint with CAPO alleging that PC X : (i) failed to record her version accurately in her statement, took sides with the taxi driver and asked her to sign two documents without giving her a clear explanation ('Neglect of Duty'); (ii) failed to properly record her sex in her statement ('Neglect of Duty') and (iii) treated her impolitely ('Impoliteness').
- 6.43 CAPO subsequently approached COM about gathering more information from her to facilitate the investigation, but its efforts were in vain. Call-up letters were sent to COM, but were met with no response. Without COM's assistance, CAPO's investigation into COM's complaint could not proceed any further. In the absence of any independent witness and corroborative evidence to support COM's complaint, CAPO classified the first 'Neglect of Duty' allegation and the 'Impoliteness' allegation as 'Not Pursuable'.
- 6.44 Regarding the second 'Neglect of Duty' allegation, CAPO noted that PC X did incorrectly record COM's sex in her statement. Upon enquiry, PC X stated that he noticed the mistake during the interview with COM on the material day. As COM refused to continue with the statement-taking and sign the statement, PC X considered it inappropriate to make any amendment to the statement without COM's agreement. CAPO regarded PC X's explanation for not correcting the mistake as reasonable, since the normal practice for taking a statement is that the statement-taker would go through the statement and the witness would be invited to read it over to identify any possible mistake contained therein before both of them sign the statement to confirm its accuracy. In this case, as the process of statement-taking was not completed, PC X did not have the opportunity to proof-read the statement with COM and rectify the mistake. CAPO therefore classified the 'Neglect of Duty' allegation concerning PC X's negligence in recording COM's sex in her statement as 'No Fault'.
- 6.45 In the course of investigation, CAPO noted that PC X failed to make a record in his notebook regarding taking a statement from COM, thus contravening the relevant provision in the Police General Orders (PGO). A 'Substantiated Other Than Reported' count of 'Neglect of Duty' was registered against

PC X. He was advised without an entry in his divisional record file to comply with the relevant PGO.

6.46 In examining the case, the IPCC had reservation over the 'No Fault' classification of the second 'Neglect of Duty' allegation. It was noted that when incorporating the particulars of COM into the statement, PC X put '男' and '家庭主婦' in the blanks concerning COM's sex and profession respectively. Considering this quite unusual inconsistency, PC X should have spotted the inconsistency and made the necessary amendment to it. It appeared that PC X did not concentrate his attention when filling out the blanks, resulting in an avoidable mistake and triggering a complaint from COM. The IPCC agreed that it would be inappropriate for PC X to make any amendment to COM's statement without COM's consent because PC X's amendment might not truly reflect COM's version and might be open to dispute. However, as the information concerning COM's sex is indisputable, there was no need for PC X to seek COM's agreement before he corrected the mistake. Moreover, it was noted that in another complaint case, a police officer made a similar mistake as PC X, but unlike PC X, that police officer rectified the mistake immediately.

6.47 Taking account of the IPCC's views, and that there was no corroborative evidence to refute PC X's claim that he would have corrected the mistake if COM completed the statement-taking, CAPO re-classified the second 'Neglect of Duty' allegation from 'No Fault' to 'Unsubstantiated'.

6.48 The Council endorsed CAPO's revised investigation result of this case.

Case 8

Neglect of Duty - Substantiated

Misconduct (Non-Reportable Complaint) - Unsubstantiated

6.49 The complainant (COM)'s vehicle collided with the private car driven by Police Constable A (PC A), who was off-duty at the material time. Police Constable X (PC X), the officer who conducted the initial enquiry at the scene, recorded the details of the accident (including the weather and road condition at the time of the accident as 'fine' and 'dry' respectively) in the Police Road Accident Report. As the police investigation revealed that COM failed to pay due attention to the traffic condition ahead resulting in the collision, he was summonsed for 'Careless Driving'.

6.50 Upon receiving the relevant documents from the Prosecution before the trial, COM noted that PC A described the road surface at the time of the accident as 'wet with drizzling' in the latter's statement. Moreover, the 'brief facts of the case' submitted to court described the weather condition at the time of the accident as also 'wet with rain'. COM did not mention the weather condition in his statement but recalled that it was similar to PC X's description in the Road Accident Report, i. e. fine weather, although there was a heavy rain shortly after the accident. COM was eventually convicted of the offence after trial. After his conviction, COM lodged a complaint against Woman Senior Inspector B (WSIP B), the Officer-in-charge of the traffic case, for her failure to clarify the discrepancy in the weather and road condition during the traffic investigation ('Neglect of Duty'). COM also alleged that PC A made a false and misleading description of the weather and road condition in the latter's statement ('Misconduct'). This 'Misconduct' allegation was a Non-Reportable Complaint as PC A was off-duty and not exercising his police authority at the time of the traffic accident.

6.51 WSIP B admitted that she was aware of the discrepancy in the weather and road condition as recorded in the Road Accident Report and PC A's statement. WSIP B explained that she would usually put more weight on the information supplied by the drivers involved when preparing the 'brief facts of the case', as the drivers would provide more detailed information on the traffic accident when compared with the brief information contained in the Road Accident Report. WSIP B noted that COM made no mention of the weather condition in his statement, while PC A described the road surface as 'wet and drizzling' in his

statement. WSIP B added that since the Prosecution had supplied the relevant documents to COM before the trial, COM could have requested her to clarify or amend the 'brief facts of the case' if he disagreed with the description of the weather and road condition therein.

6.52 CAPO reviewed the 'Notes of Proceedings' of the traffic case, and noted that COM testified in court that the road surface was 'dry with no rain' at the material time. The Magistrate, whilst making no specific comment on this issue, stated in his verdict that PC A was an honest and reliable witness and he disbelieved COM's version. CAPO also checked with the Hong Kong Observatory, which stated that the weather condition during the traffic accident was 'cloudy' with 0 mm rainfall recorded. However, a rainfall record of less than 0.5 mm would not be detected.

6.53 After investigation, CAPO considered that WSIP B had duly considered the discrepancy in the weather and road condition during her investigation, and her decision to put more weight on PC A's version was a matter of judgment. Moreover, WSIP B had tendered all the relevant evidence including the Road Accident Report to court and the Magistrate had considered the issue before convicting COM. Without other evidence indicating any negligence on the part of WSIP B, CAPO classified the allegation of 'Neglect of Duty' as 'Unsubstantiated'. For the Non-Reportable Complaint of 'Misconduct', CAPO noted that PC A's version of the weather and road condition was different from that of PC X, but there was no evidence showing that PC A lied to mislead the traffic investigation officer or the court. For this reason, CAPO classified this allegation as 'Unsubstantiated'.

6.54 After examining the case, the IPCC had reservation about the 'Unsubstantiated' classification for the allegation of 'Neglect of Duty' and offered the following observations:

(a) it was noted that PC X was accompanied by Police Constable Y (PC Y) and Woman Police Constable Z (WPC Z) when attending the scene. CAPO should obtain their versions of the weather and road condition on that day;

- (b) the Road Accident Report was an important document in a traffic investigation, and had often been submitted as evidence in trials. In the instant case, the Road Accident Report was compiled by PC X, who was the first officer attending the scene, and more importantly, an independent person as opposed to PC A who was an interested party in the traffic case. The IPCC therefore had difficulty in accepting WSIP B's decision of putting more weight on the information supplied by PC A;
- (c) the 'brief facts' of a case must reflect the facts as revealed by the evidence and should not be amended simply according to a defendant's wish, in the instant case, COM's wish as claimed by WSIP B. Moreover, the Magistrate in his verdict mentioned that he had examined all the evidence, including the weather and road condition, before making a decision on the case. The weather and road condition was apparently a relevant factor in considering the case. WSIP B's explanation that she would have amended the 'brief facts of the case' if COM had raised such a request to her was inappropriate; and
- (d) irrespective of whether COM had subsequently raised the discrepancy during the trial, WSIP B should have clarified the discrepancy before making her judgment and preparing the 'brief facts of the case'.

6.55 In response, CAPO enquired with PC Y and WPC Z. PC Y had no recollection of the weather and road condition on that day, while WPC Z recalled that the road was 'dry with no rain', but it started to drizzle soon after the handling of the traffic accident. After considering the IPCC's views on the traffic investigation, CAPO re-classified the allegation of 'Neglect of Duty' against WSIP B as 'Substantiated'. WSIP B was to be advised, without an entry in her divisional record file, of the need to be more prudent and circumspect in clarifying any discrepancy surfaced during her investigation in future.

6.56 The Council endorsed the revised investigation result of the case.

Case 9

Police Procedures - Substantiated

Neglect of Duty - Substantiated Other Than Reported

- 6.57 On the 12th of one month in 2004, the complainant (COM) made a report of 'Missing Person' to a Police Station as she was concerned that she had lost contact with her 18-year-old daughter for three days. The following morning (the 13th), she telephoned the Police Station and was told that the case file had been sent to the Regional Missing Person Unit (RMPU). She then rang up the office of RMPU for enquiry, but nobody answered her call. Three days later (the 15th), she telephoned the office of RMPU again and learned that the office had not yet received the case file. When she called the report room of the concerned Police Station again, the officer receiving her call told her that the case file had already been sent out. COM was dissatisfied with the long time taken for the dispatch of the file on her report from the Police Station to RMPU, and lodged a complaint against the police procedures involved ('Police Procedures').
- 6.58 According to the provision of the Police General Orders (PGO), 'Missing Person' reports should be sent by the Duty Officer (DO), through the Assistant Divisional Commander (Operations) (ADVC OPS), to RMPU within 48 hours from the time of the report, and RMPU would check with the relevant DO if the case file was not received within two days of the report. The purpose of that particular PGO was to ensure that all 'Missing Person' reports would be dealt with expeditiously.
- 6.59 CAPO's investigation revealed that COM made the report to the Police Station at 1412 hours on the material day (the 12th), and was interviewed by the Assistant Duty Officer (ADO) of the Police Station. After the interview, the ADO reported to the DO of the Police Station that COM's report did not fall within the category of 'Missing Person at Risk'. The ADO submitted the case file to the DO after completing the necessary initial actions, including initial efforts to locate the missing person, sending Police E-mail Network (PEN) messages to the

Criminal Records Bureau (CRB) and all report rooms, and inputting the details of the case into the Communal Information System (CIS). After examining the case, the DO submitted the file to ADVOC OPS through the Operations Support Sub-Unit Commander (OSSUC) on the same day. As the day on which COM made the report was a public holiday, OSSUC and ADVOC OPS were off-duty. Both of them endorsed the case file when they reported for duty on the following day (i. e. the 13th). Subsequently, the case file reached the RMPU by dispatch at about 1600 hours on the 15th, three days after COM had made the report.

- 6.60 In the course of the investigation, CAPO looked into the general file dispatch system of the District Headquarters (Dist. HQ) to which the Police Station belonged. All documents from the Police Station to the RMPU were delivered by dispatch via the Dist. HQ and the Regional Headquarters (RHQ). There was only one dispatch each from the Police Station to the Dist. HQ at 1030 hours, and from the Dist. HQ to the RHQ at 0900 hours on a normal working day. Depending on whether a case file caught the 1030 hours dispatch from the Police Station to the Dist. HQ, it might reach the RHQ on the following day or the day after. For the present case, the file on COM's report missed the 1030 hours dispatch on the 13th, i. e. the day on which it was endorsed by ADVOC OPS and OSSUC. The file therefore only reached the Dist. HQ on the 14th and the RHQ on the 15th, taking a total of three days for the file to arrive at the RMPU.
- 6.61 CAPO also made enquiries with the Woman Police Constable (WPC) of the RMPU. It was revealed that she had learned about COM's 'Missing Person' report from the CIS on the 13th, the day following that on which COM made her report. As she knew that it was not a 'Missing Person at Risk' case, and the case file was being dispatched from the Police Station, she reported the matter to her supervisor and waited for the arrival of the case file. On the 15th, she received COM's telephone call in the morning enquiring whether the RMPU had received the case file and commenced investigation action. She then explained the file dispatch arrangements to COM. Though she enquired afterwards with the report room of the Police Station concerned and the General Registries of other relevant police stations and the Dist. HQ, the file did not arrive until about

1600 hours on that day.

6.62 In examining COM's complaint case, the Deputy District Commander (DDC) of the Dist. HQ commented that proper actions had been taken by the officers of both the Police Station concerned and RMPU. COM's allegation had arisen due to the 48-hour requirement of the PGO, which appeared unreasonable and difficult for the handling officers to comply with under the dispatch system of the Dist. HQ, particularly when a report was received on a Friday evening or before a long public holiday. The WPC of RMPU had taken action to check with the report room of the Police Station and the General Registries of other relevant police stations and the Dist. HQ when she knew that the case file was not yet received within two days of the report. As the case file was already on its way, she could do nothing to speed up the delivery in progress. CAPO considered that no deliberate delay was caused by the officers concerned in the dispatch of the case file and classified COM's allegation as 'No Fault'.

6.63 Upon examining the case, the IPCC had reservation about the 'No Fault' classification, and had the following observations. Firstly, 'Missing Person' reports ought to be investigated promptly, which was obviously the rationale behind the 48-hour requirement of the PGO. Notwithstanding that, it was a matter of fact that a total of about 74 hours had been taken for the case file to reach RMPU from the Police Station concerned, which far exceeded the PGO requirement of 48 hours. Secondly, noting that the day on which COM made the report was a public holiday and that OSSUC and ADVC OPS could only endorse the file on the following day, and taking account of the standard time schedules for delivery of files to RMPU, officers of the Police Station should have anticipated that it was not possible for the case file to reach RMPU within 48 hours by normal dispatch. Special arrangements would be needed so as to comply with the PGO requirement. The simplest and quickest way would be to fax the papers on COM's 'Missing Person' report to RMPU. Failure of the Police Station to adopt an alternative showed that the officers concerned were lacking in flexibility and foresight. Regrettably, they seemed to be under the impression that their responsibilities had been fulfilled upon sending out the file.

6.64 In light of the above observations, the IPCC suggested CAPO to revise the classification for COM's allegation against 'Police Procedures' from 'No Fault' to 'Substantiated'. In addition, the IPCC observed that while the WPC was aware of COM's 'Missing Person' report from the CIS on the 13th, she failed to check with the DO of the Police Station when the case file was not received within two days of the report, thereby contravening the PGO. For this reason, the IPCC suggested that a 'Substantiated Other Than Reported' count of 'Neglect of Duty' should be registered against the WPC.

6.65 Having considered the IPCC's comments, CAPO agreed to re-classify the original allegation for 'Police Procedures' as 'Substantiated'. CAPO also subscribed to the IPCC's suggestion of registering an additional 'Substantiated Other Than Reported' count of 'Neglect of Duty' against the WPC. In addition, the DDC of the Dist. HQ had already issued an interim instruction to fax the case files of all 'Missing Person' reports to the RMPU before the dispatch of the actual files in order to expedite the processing of cases. The Police was also requested to review the relevant provision of the PGO, and consider improvement measures to the existing file dispatch system so that all 'Missing Person' reports could be handled as expeditiously as possible.

6.66 The IPCC endorsed CAPO's investigation result of this case.

Case 10

Neglect of Duty - Unsubstantiated

Neglect of Duty - Substantiated

Neglect of Duty - Substantiated Other Than Reported

6.67 In September 2002, the complainant (COM) was arrested in Kowloon for 'Drink Driving' and 'Driving Whilst Disqualified' and was released on police bail pending further investigation. In November 2002, when he answered bail, COM was further

arrested for 'Forging a motor insurance policy' and the police bail was extended.

- 6.68 In February 2003, COM, while still on police bail, was arrested in the New Territories by Senior Police Constable X (SPC X) for 'Driving Whilst Disqualified'. COM was released on police bail pending further enquiries.
- 6.69 As for the 'Kowloon' traffic case, COM pleaded guilty to all the charges in court A in March 2003 and was remanded in custody in a Reception Centre until 7 April 2003 for sentencing.
- 6.70 As regards the 'New Territories' traffic case, SPC X carried out Sergeant Y (SGT Y)'s instruction to go to the Reception Centre to charge COM with the various traffic-related offences. The first court hearing was scheduled for 4 April 2003 in court B. The Magistrate issued a Body Order for bringing COM from the Reception Centre to court B on 4 April 2003, but SPC X failed to serve the Body Order on the Correctional Services Department (CSD) which is in charge of the Reception Centre. As a result, COM did not attend the first court hearing on 4 April 2003. At the court hearing on 4 April 2003, the prosecution, in COM's absence, applied for a 2-week adjournment on the ground that additional charges would be laid against COM. Consequently, the court allowed the case to be adjourned to 23 April 2003. Upon the prosecution's application, the Magistrate issued another Body Order for bringing COM before the court on 8 April 2003 for mention, having regard to COM's outstanding case to be heard on 7 April 2003.
- 6.71 On 7 April 2003, COM's 'Kowloon' traffic case was concluded in court A and COM was given a non-custodial sentence. Upon receipt of information from court A on the same day, the Magistrate of court B issued a 'Warrant of Committal for Safe Custody During an Adjournment of the Hearing' ('Warrant of Committal') directing CSD to keep COM in jail custody, and to bring him before court B on 8 April 2003.

- 6.72 In June 2003, COM, who thought that he could be released on 7 April 2003 following the imposition of the non-custodial sentence on him for his 'Kowloon' traffic case, lodged a complaint alleging that he was unreasonably detained for one day to 8 April 2003 and the unnecessary detention was attributed to the Police's failure to arrange for his attendance in court B on 4 April 2003 ('Neglect of Duty').
- 6.73 CAPO's investigation revealed that the underlying cause of COM's detention was the Magistrate's order made in court B to commit COM into the custody of CSD. CAPO considered that SPC X's failure to serve the Body Order on CSD only caused the unnecessary adjournment of COM's court case, and had no direct cause and effect on the subsequent issue of a 'Warrant of Committal' by the Magistrate of court B for the safe custody of COM on 7 April 2003. As such, the 'Neglect of Duty' allegation was classified as 'Unsubstantiated'.
- 6.74 As SPC X admitted to having failed to serve the Body Order on CSD, resulting in COM's absence from the court hearing in court B on 4 April 2003, a 'Substantiated Other Than Reported' count of 'Neglect of Duty' was registered against him on his negligence.
- 6.75 CAPO also registered another 'Substantiated Other Than Reported' count of 'Neglect of Duty' against SGT Y, SPC X's immediate supervisor, for failing to properly supervise SPC X's work and check the documents handed back to him by SPC X, including the Body Order requiring COM to attend court hearing on 4 April 2003.
- 6.76 Having examined the case, the IPCC did not agree with the 'Unsubstantiated' classification of the 'Neglect of Duty' allegation. The IPCC considered that SPC X's negligence in serving the Body Order on CSD to secure COM's attendance at the court hearing on 4 April 2003 was the substantive cause of COM's unnecessary detention from 7 to 8 April 2003, that is, had COM been brought to court on 4 April 2003, the incidents that ensued leading to COM's unnecessary detention would not have arisen.

- 6.77 After considering the IPCC's views, CAPO conducted further investigation into COM's complaint, including seeking advice from the Police Legal Adviser. It was noted that the Police Legal Adviser was unable to conclude that SPC X's negligence in serving the Body Order on CSD to secure COM's attendance at the court hearing on 4 April 2003 had resulted in COM's detention from 7 to 8 April 2003. Taking account of the Police Legal Adviser's advice and to reflect the impropriety committed by SPC X, CAPO substituted the original count of 'Neglect of Duty' allegation by two counts of 'Neglect of Duty' allegation against SPC X for failing to (i) serve the Body Order on CSD resulting in an unnecessary detention of COM from 7 to 8 April 2003, and (ii) secure COM's attendance in court on 4 April 2003 by serving a Body Order on CSD. The two 'Neglect of Duty' allegations were classified as 'Unsubstantiated' and 'Substantiated' respectively. Disciplinary charges were to be instituted against SPC X and SGT Y for the 'Substantiated' allegations as advised by the Police Legal Adviser.
- 6.78 Noting that the Police Legal Adviser had advised that SPC X's failure to serve the Body Order on CSD might lead to the Commissioner of Police being subject to an action for damages for negligence, the IPCC requested CAPO to inform it should there be any legal proceedings initiated by COM against the Police in future. If the court judgment on COM's law suit is in his favour, the IPCC considered that it would be necessary for CAPO to review the investigation result, in particular the 'Unsubstantiated' classification by taking into consideration the court judgment, as well as any new information and/or evidence that may be revealed in the judicial process. CAPO acceded to the IPCC's request.
- 6.79 The IPCC endorsed the revised investigation result of this case.

Case 11

Impoliteness - Unsubstantiated

Neglect of Duty - Substantiated Other Than Reported
Neglect of Duty - Substantiated Other Than Reported
Misconduct - Substantiated Other Than Reported

- 6.80 The complainant (COM) was a feeder bus driver of a public transport company. One day, he was ticketed for illegal parking by Police Constable X (PC X) under the instruction of Senior Inspector Y (SIP Y). There was some argument between COM and SIP Y during the encounter. Two days later, COM, who was dissatisfied with the manners of SIP Y during the ticketing action, lodged a complaint against SIP Y for being impolite and rude to him ('Impoliteness').
- 6.81 Two weeks later, Assistant Divisional Commander Z (ADVC Z), SIP Y's immediate supervisor, telephoned COM and approached SIP Y respectively with a view to resolving COM's complaint by way of Informal Resolution. The following day, SIP Y wrote to the public transport company which employed COM to complain about the misconduct of COM (i. e. parking offence and offensive manners). A manager of the public transport company then interviewed COM and told him about the letter from SIP Y. According to COM, the manager asked him to resign or he (COM) would be dismissed and lose all his employment benefits. COM was given one week to give a reply to his manager.
- 6.82 In the evening of the same day, COM telephoned ADVC Z telling him about the letter from SIP Y. ADVC Z then called the manager of the public transport company, requesting to meet him to discuss the matter. A meeting was subsequently held between ADVC Z and the manager. After the meeting, the manager wrote to ADVC Z confirming their discussion during the meeting. According to the manager, ADVC Z told him during the meeting that SIP Y's letter might not be appropriate, and a detailed internal investigation would be conducted into the matter. ADVC Z also requested the manager not to take any disciplinary action against COM. The manager subsequently asked COM to resume duty.
- 6.83 As regards the 'Impoliteness' allegation, upon enquiry, SIP Y denied having been impolite or rude to COM. As there was no

independent evidence or witness to support either side's version, CAPO classified the 'Impoliteness' allegation as 'Unsubstantiated'.

6.84 In the course of investigating COM's complaint, CAPO discovered that SIP Y was negligent in his duties and contravened relevant provisions in the Police General Orders and the Force Procedures Manual in handling COM's case. The specific negligences were :

(a) SIP Y did not make a proper record in his notebook regarding his handling of COM's illegal parking on the material day; and

(b) in his letter to the public transport company, SIP Y signed for the Divisional Commander (DVC) instead of the Commissioner of Police. SIP Y did not route the letter through the Divisional Headquarters for vetting before sending out the letter. Neither the DVC nor ADVZ had been briefed by SIP Y on the issue of the letter.

6.85 Two 'Substantiated Other Than Reported' counts of 'Neglect of Duty' were registered against SIP Y.

6.86 Upon examination of the complaint case, the IPCC had no objection to the 'Unsubstantiated' classification for the 'Impoliteness' allegation, but considered it necessary to register an additional 'Substantiated Other Than Reported' count of 'Misconduct' against SIP Y for the following reasons :

(a) there was no need for SIP Y to write to the public transport company to complain about COM's misconduct because COM's parking offence had been properly dealt with by the ticketing action;

(b) in his letter to the public transport company, SIP Y set out the misconduct of COM in detailed and vivid terms and requested the public transport company to offer him a reply. Upon examining SIP Y's letter, the public transport company might feel an implicit expectation on the part of the DVC

to have disciplinary action taken against COM. As it turned out, the manager of the public transport company did interview COM and order him to resign, or he would be dismissed and lose all his employment benefits. Although the manager subsequently asked COM to resume duty after ADVZ's clarification with him (the manager) on the matter, SIP Y's unauthorized letter had tarnished COM's reputation, put COM's job at risk and caused unnecessary psychological hardship to him;

(c) SIP Y's signing the letter for the DVC had misled the public transport company into believing that the DVC was personally involved in the matter; and

(d) SIP Y sent the complaint letter to the public transport company 17 days after the ticketing action but one day after ADVZ's enquiry with him, apparently after he became aware that COM had lodged a complaint against him. The circumstances of this case, including the omission of any file reference number in SIP Y's letter, suggested that SIP Y might have deliberately avoided the normal routing procedure because he believed that his letter would not be given the Force's approval. The available evidence gave rise to a suspicion that SIP Y intended to take revenge against COM for complaining against him. The possibility that SIP Y had issued the letter with a malicious intent could not be ruled out.

6.87 The case was discussed at a Joint IPCC/CAPO Meeting. Having examined the IPCC's views, CAPO agreed with the IPCC's observations, and registered a further 'Substantiated Other Than Reported' count of 'Misconduct' against SIP Y. However, the IPCC did not subscribe to CAPO's view that there was insufficient evidence to suggest that SIP Y sent the letter to the public transport company out of a malicious intent. Taking account of factors such as SIP Y's sending the letter to the public transport company one day after COM had complained against him, SIP Y's ignoring the routing procedure when writing to the public transport company, and that malice is always a matter for inferences and hard to prove by direct evidence, the IPCC considered that SIP Y's act was a deliberate one and it was more appropriate to use SIP Y's malicious intent as the base for the 'Substantiated Other Than Reported' count

of 'Misconduct'.

- 6.88 Noting that SIP Y would be advised without an entry in his divisional record file on his misdeed, the IPCC commented that SIP Y had made a blunder, but the penalty was not commensurate with the gravity of his offence. Having considered the IPCC's comments, CAPO sought legal advice, which confirmed that there was sufficient evidence to frame a disciplinary charge of 'Contravention of Police Orders' against SIP Y for the disclosure of information to a private individual without the authority of a Superintendent and above, contrary to the relevant provision of the Police General Orders. The legal advice was referred to SIP Y's Formation Commander for follow-up action.
- 6.89 The IPCC endorsed the revised investigation result of this case.

Case 12

Assault - Unsubstantiated

Neglect of Duty - Substantiated Other Than Reported (15 counts)

- 6.90 The complainant (COM), an illegal immigrant, was arrested for 'Possession of Offensive Weapon' and 'Illegally Remaining in Hong Kong'. COM was detained in a police station to appear before court the following day. When arriving at the court the following morning, he lodged a complaint of 'Assault' alleging that Police Constable A (PC A) assaulted him during his detention in the police station. COM was then sent to the hospital for medical treatment and was diagnosed as having tenderness, abrasion, bruising and swelling on the right side of his face (i.e. COM's right cheek and eye). During the complaint investigation, COM gave several descriptions on how he was assaulted by PC A but his versions were not consistent. COM eventually clarified that PC A punched his right face and chest wall, kicked and elbowed his chest wall, and stepped on his left face inside a cell room.

6.91 Upon receiving COM's complaint, CAPO took the following investigative actions:

- (a) CAPO interviewed PC A and the Report Room staff who were on duty at the material time. They denied having assaulted COM or witnessed COM being assaulted by PC A. They recalled that COM was once taken to the Temporary Holding Area for enquiry, during which COM behaved rowdily by hitting and kicking the gate, grabbing the iron grille and bumping his head against the gate. CAPO also interviewed all other police officers who might have contacts with COM. Except the officers who escorted COM to the court, all of them were not aware of any injury on COM;
- (b) CAPO visited the police station concerned, and examined the closed circuit television (CCTV) footage which captured the corridor of the Male Cell Block. The CCTV footage did not capture COM being assaulted by any police officer;
- (c) CAPO tried to interview six detainees who were also detained in the police station at the material time. However, these detainees were either out of contact or had no useful information to provide;
- (d) CAPO sought advice from the Consultant Forensic Pathologist, who opined that the medical findings of COM were not consistent with the impact of the alleged assault, and that the injuries of COM could have been self-inflicted by bumping his face against a resistant object, such as a wall; and
- (e) CAPO sought legal advice on the criminal liability of PC A. The Department of Justice did not recommend laying any charge against PC A, as there was no reasonable prospect of convicting PC A on the alleged assault on COM by relying on the evidence in hand.

6.92 After investigation, CAPO concluded that there was no corroborative evidence supporting the 'Assault' allegation and classified it as 'Unsubstantiated'. However, it was a concrete fact that no police officer had ever noticed the

considerable facial injury on COM until he was escorted to court the following morning. This obviously cast doubt on the credibility of the Report Room staff. CAPO compared the relevant CCTV footage and the Cell Occurrence Book, and discovered many discrepant entries during the period when COM was first arrested until he lodged his complaint. There were 15 police officers, namely 4 Duty Officers and 11 Report Room staff, who did not physically check the police cell, but made false entries in the Cell Occurrence Book claiming that they did. CAPO enquired with these officers, who admitted having made false entries in the Cell Occurrence Book during the material period. For this reason, CAPO registered a total of 15 'Substantiated Other Than Reported' counts of 'Neglect of Duty' against these officers for their failures to conduct cell checks. In view of the serious nature of this breach of discipline, several disciplinary charges were initiated against the officers concerned, including 5 charges of 'Conduct to the Prejudice of Good Order and Discipline', 88 charges of 'Making a Statement which is False in Material Particular' and 1 charge of 'Contravention of Police Orders'.

6.93 In addition, the CCTV footage revealed that COM had once behaved uncooperatively by lying on the ground when Police Constables B and C (PCs B and C) escorted COM from the police cell to the Crime Office for enquiry. PCs B and C were seen using the police tactics of 'Remove by Two' to remove COM from the cell, but they failed to fully apply the tactics as their movements were considerably limited by the narrow corridor of the Cell Block. CAPO's investigation also revealed that Station Sergeant D (SSGT D) made a typing mistake in the computer detention record regarding the cell number in which COM was detained. As an 'Outwith Matter' (i. e. a matter which has been disclosed in the course of the complaint investigation but is not closely related to the complaint), PCs B and C were reminded of the importance of full application of the 'Remove by Two' tactics, whereas SSGT D was advised, without an entry in his divisional record file, to avoid making similar typing mistake in future.

6.94 In view of the large number of police officers involved in failing to conduct cell checks in the instant case, the IPCC expressed concern over the management of police cells. In

response, CAPO assured the Council that the Force would not tolerate such incident, and the Police had effective measures to supervise and monitor the management of police cells. CAPO considered that the existing orders and procedures governing Report Room practices are clear and comprehensive. Moreover, the CCTV installation and Cell Occurrence Book are effective in safeguarding the security of the Cell Block. To reinforce the officers' awareness of the importance of cell management, the relevant issue highlighted in this case would be brought to the attention of frontline officers, and the same would also be raised and discussed during CAPO's liaison meetings with District Formation Commanders.

6.95 The Council endorsed the investigation result of the case.

Case 13

Neglect of Duty - Unsubstantiated

Neglect of Duty - Unsubstantiated

Neglect of Duty - Substantiated Other Than Reported

Neglect of Duty - Substantiated Other Than Reported

6.96 The complainant (COM) was arrested by Police Constable A (PC A) for 'Fighting in Public Place'. After investigation, the Officer-in-Charge of the case, Detective Senior Inspector B (DSIP B) released the opposite party involved in the fight (Opposite Party) unconditionally and made an application for binding over COM. COM was eventually bound over and ordered to pay cost. Shortly after the binding over, COM lodged a complaint against:

(a) PC A for failing to meet COM's request to add some missing details to his cautioned statement (Neglect of Duty); and

(b) DSIP B, Detective Sergeant C (DSGT C) and Detective Senior Police Constable D (DSPC D) of the crime investigation team for failing to investigate the case fairly, and not giving COM a chance to give a statement to defend himself (Neglect of Duty).

- 6.97 For allegation (a), PC A denied that COM had mentioned such a request to him. He also denied having misled COM to believe that crime investigation detectives would take a detailed statement from him later at the Police Station. In the absence of any independent evidence to support either side's version, CAPO classified this allegation as 'Unsubstantiated'.
- 6.98 For allegation (b), CAPO noted that DSIP B, DSGT C and DSPC D had tried to locate other witnesses at the scene, and checked the relevant Closed Circuit Television (CCTV) recording to see if it captured the incident, but in vain. DSIP B considered it unnecessary to take a further statement from COM because the cautioned statement taken earlier from him by PC A was found to be proper and sufficient for the purpose of investigation of the case. Besides, there was no evidence suggesting that COM had requested to give a further statement. DSIP B had also taken other relevant factors into consideration. Since there was no evidence suggesting DSIP B's investigation was improper or biased, CAPO also classified this allegation as 'Unsubstantiated'.
- 6.99 After examining CAPO's explanation, the IPCC agreed with the classification recommended by CAPO for allegations (a) and (b). The IPCC noted that DSIP B had conducted interviews with COM and the Opposite Party separately with a view to clarifying their versions of the incident when they answered bail but DSIP B failed to record any details of the interviews in his notebook. The IPCC also noted that DSGT C failed to record in his notebook regarding his visit to the scene to check the CCTV recording and to locate witnesses. The IPCC considered that both DSIP B and DSGT C had contravened the relevant provision in the Police General Orders. The IPCC thus suggested to register a 'Substantiated Other Than Reported' count of 'Neglect of Duty' against DSIP B and DSGT C respectively.
- 6.100 After considering the IPCC's suggestion, CAPO agreed to register one 'Substantiated Other Than Reported' count of 'Neglect of Duty' against DSIP B and DSGT C respectively.

6.101 The IPCC endorsed CAPO's investigation result of this case.

Case 14

Unnecessary Use of Authority - Unsubstantiated

Misconduct - Unsubstantiated

Neglect of Duty - Unsubstantiated

Neglect of Duty - Substantiated

Neglect of Duty - Not Fully Substantiated

6.102 A 'Burglary' report was made to the Police where the burgled premises happened to be located in the complainant (COM)'s residential building. Detective Police Constable A (DPC A) attended the scene and enquired with the victim of the case. Police Tactical Unit (PTU) officers were also deployed to search for the suspect in the vicinity. COM was stopped by a PTU officer on the ground floor of his residential building, but was later released after his personal particulars had been recorded. Having viewed the Closed Circuit Television recording and noted COM's appearance was identical to the suspect as described by the victim, Detective Senior Inspector B (DSIP B) instructed DPC A to arrest COM at his home. COM was then brought back to the Police Station for further investigation. At an Identification (ID) Parade arranged by the Police, COM was positively identified by the victim as the burglar. Having sought legal advice, COM was charged with the offence of 'Burglary'. However, he was acquitted after trial.

6.103 After the trial, COM lodged the following complaints:

(a) DPC A arrested COM despite insufficient evidence ('Unnecessary Use of Authority');

(b) DSIP B told COM that the victim would positively identify him prior to the conduct of the ID Parade. He reckoned that DSIP B should not say so and suspected that the victim had been tipped off ('Misconduct');

(c) DSIP B failed to investigate the case properly before

arresting and charging COM ('Neglect of Duty');

(d) DSIP B failed to return the case exhibits to COM after the court proceeding had been concluded for almost six months ('Neglect of Duty'); and

(e) DSIP B failed to reply to a letter from a District Councillor X sent on COM's behalf ('Neglect of Duty').

6.104 For allegation (a), DPC A made the arrest after DSIP B had considered all lines of enquiry and was satisfied that COM was connected with the crime. However, in the light of COM's acquittal by the court, CAPO classified the allegation as 'Unsubstantiated'.

6.105 For allegation (b), DSIP B denied the allegation. It was noted that the ID Parade was conducted by an officer who was not involved with the case and in the presence of COM's legal representative. It was also conducted in a fair and unbiased manner in accordance with established procedures. In the absence of any corroborative evidence to support COM's version, CAPO classified the allegation as 'Unsubstantiated'.

6.106 On allegation (c), CAPO noted that DSIP B had considered all available evidence before arresting COM. An ID Parade was arranged at the earliest opportunity and legal advice was sought before laying charge against COM. The court's verdict indicated that COM's acquittal was mainly due to the inconsistencies in the victim's evidence and the weight of the identification. A case review conducted by DSIP B's supervisor also concluded that the investigation was properly conducted. In the absence of other supporting evidence, CAPO classified the allegation as 'Unsubstantiated'.

6.107 For allegation (d), CAPO's investigation revealed that DSIP B failed to promptly initiate the disposal of the case exhibits upon the receipt of the crime file. This allegation was thus classified as 'Substantiated'. DSIP B would be advised, without an entry in his divisional record file, of the

importance of complying with requirements on the timely return and disposal of case property.

- 6.108 For allegation (e), CAPO's investigation revealed that a written reply had been sent to District Councillor X upon receipt of his letter. This allegation was thus classified as 'No Fault'.
- 6.109 CAPO also registered a 'Substantiated Other Than Reported' count of 'Neglect of Duty' against the Property Officer, Assistant Clerical Officer C (ACO C), for failing to process the disposal of the case exhibits within a reasonable period of time, thus contravening the provision of the Force Procedures Manual (FPM). ACO C would be advised, without an entry in her divisional record file, of the importance of complying with the relevant provision of the FPM.
- 6.110 After examining CAPO's explanation, the IPCC agreed with the classifications recommended by CAPO for allegations (b), (c) and (d). Regarding allegation (a), the IPCC observed that CAPO only listed DPC A who made the arrest as the complainee. However, as DPC A made the arrest on the instruction of DSIP B, the IPCC suggested that DSIP B should be listed as another complainee for this allegation as well.
- 6.111 For allegation (e), the IPCC noted that a logbook was kept in the General Registry of the Police Station concerned to record all postings of letters. In view of COM's complaint, the IPCC asked CAPO to examine the logbook with a view to ascertaining if there was a record of the posting of the letter. If the result was negative, CAPO was suggested to revise the classification for this allegation to one of 'Not Fully Substantiated' in order to align with the findings of two precedent cases.
- 6.112 The IPCC also noted that a 'Substantiated Other Than Reported' count of 'Neglect of Duty' was registered against ACO C for her delay in initiating action for the disposal of the case exhibits. ACO C attributed the delay to the heavy workload devolved upon the Property Office. While the reason put forward

by ACO C should not be taken as an excuse for the delay, the IPCC requested CAPO to examine if the situation as explained by ACO C did really exist in the office at the material time and if so, did her supervisor appreciate the difficulties she faced and consider deploying additional hands to help her out. If CAPO's further investigation revealed that the workload of ACO C was so heavy that she could not cope with, then she should not be wholly blamed for the delay in returning the case exhibits to COM within a reasonable period of time. On this basis, the IPCC suggested that it would be more appropriate to list ACO C as another complainee for allegation (d) - 'Neglect of Duty' with a classification of 'Not Fully Substantiated', as opposed to a 'Substantiated Other Than Reported' count of 'Neglect of Duty' as originally proposed.

6.113 After further deliberations, CAPO accepted the above suggestions and revised the list of complainees and classifications for the allegations accordingly.

6.114 The IPCC endorsed CAPO's investigation result of this case.

Chapter 7 Acknowledgements

- 7.1 The Council would like to express its gratitude to the Commissioner of Police and his staff – in particular the Director of Management Services, the Assistant Commissioner of Police (Service Quality), the Chief Superintendent, and all the staff of the Complaints and Internal Investigations Branch of the Police Force – for their co-operation and assistance in responding to the Council's queries and suggestions in the past year.
- 7.2 Ms Vivien CHAN, JP, who had served the Council for two years, retired from the Council at the end of 2005. The Council is most grateful for her devoted service and valuable contributions to the work of the Council in the past two years.
- 7.3 Finally, the Council would also like to record its appreciation of the contribution and dedicated support given by Mrs Annie LEUNG FOK Po-shan (Secretary to the Council till 15.9.2005) and Mrs Brenda FUNG YUE Mui-fun (Secretary to the Council commencing 16.9.2005), and the staff of the Council Secretariat.

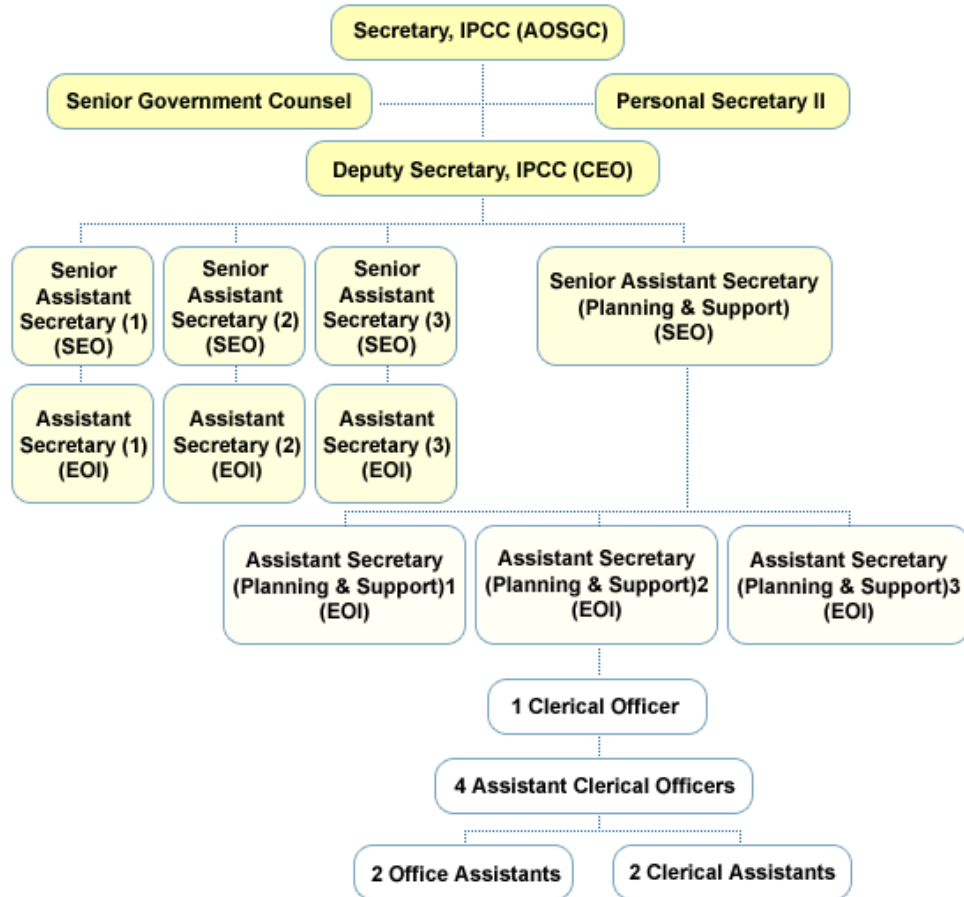
Appendices

Appendix

- I Organization Chart of the IPCC Secretariat
- II The Processing of Complaints by CAPO Prior to their Submission to the IPCC
- III The Monitoring of CAPO Completed Investigations on Police Complaints by the IPCC
- IV Number of Complaints* Against the Police Registered by CAPO in the Years 2003, 2004 and 2005
- V Origin of Complaints* Received in the Years 2003, 2004 and 2005
- VI Nature of Complaints* Received in the Years 2003, 2004 and 2005 (According to Initial Categorization)
- VII Position as at 31.12.2005 on the Processing of CAPO Investigation Reports Received in 2005
- VIII Nature of Allegations Endorsed by the IPCC in the Years 2003, 2004 and 2005
- IX Results of Investigations Endorsed by the IPCC for the Years 2003, 2004 and 2005
- X Analysis of Fully Investigated Allegations Endorsed by the IPCC in 2003, 2004 and 2005
- XI Number of Allegations by Nature and by Results of Investigations as per CAPO Reports Examined by the IPCC in 2005
- XII Criminal/ Disciplinary Proceedings and Internal Action Taken by Police in respect of Cases Endorsed in the Years 2003, 2004 and 2005
- XIII Nature of Queries/ Suggestions Raised by the IPCC in 2003, 2004 and 2005

Appendix I

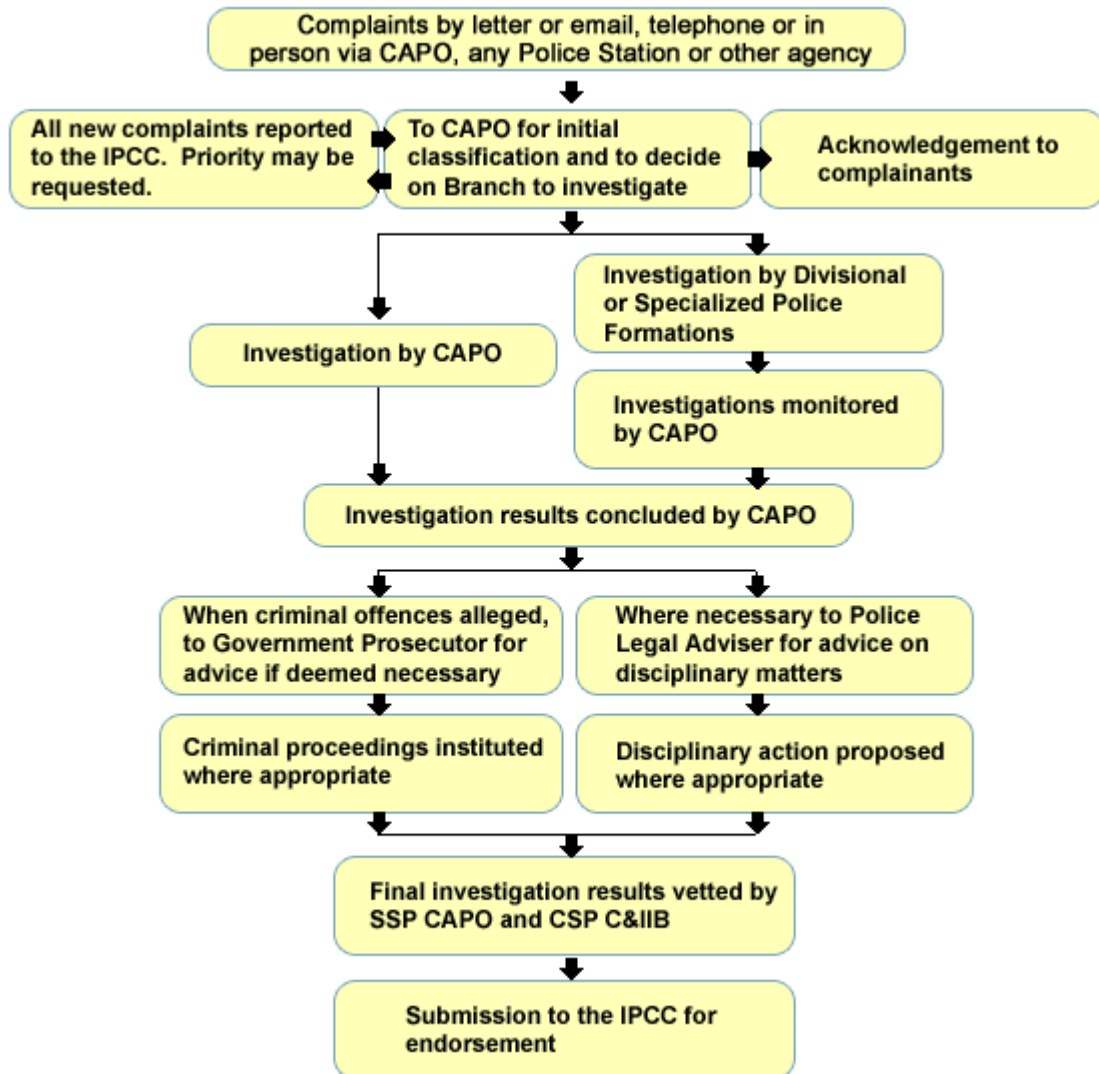
Organization Chart of the IPCC Secretariat



- Notes:
- | | |
|-------|--|
| IPCC | Independent Police Complaints Council |
| AOSGC | Administrative Officer Staff Grade 'C' |
| CEO | Chief Executive Officer |
| SEO | Senior Executive Officer |
| EOI | Executive Officer I |

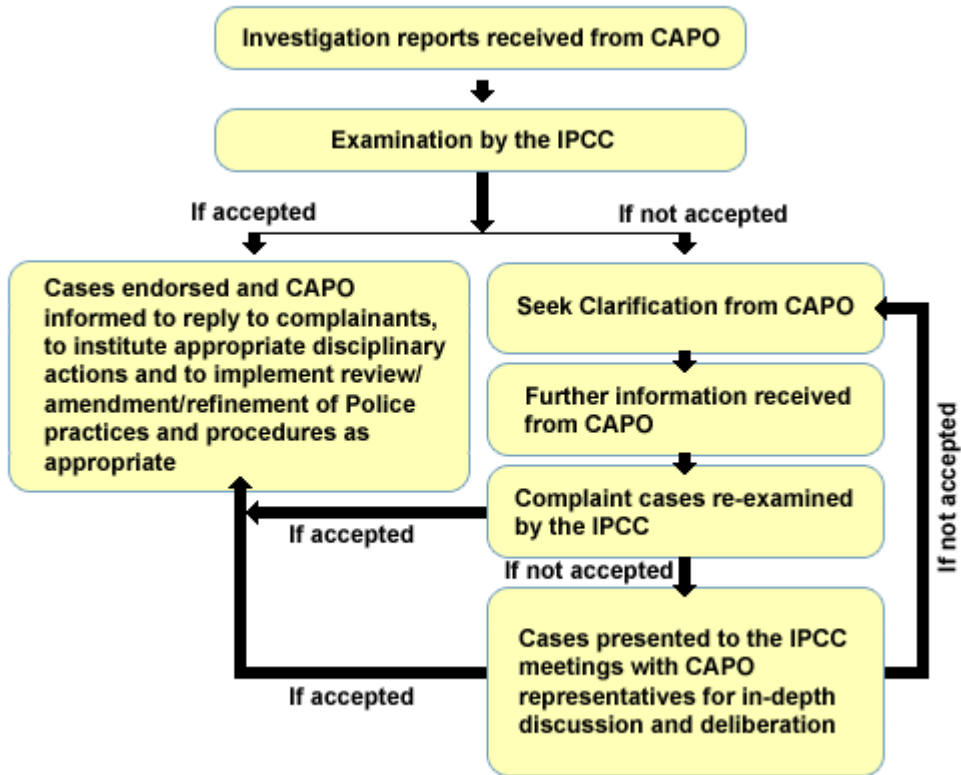
Appendix II

The Processing of Complaints
by CAPO Prior to their Submission to the IPCC



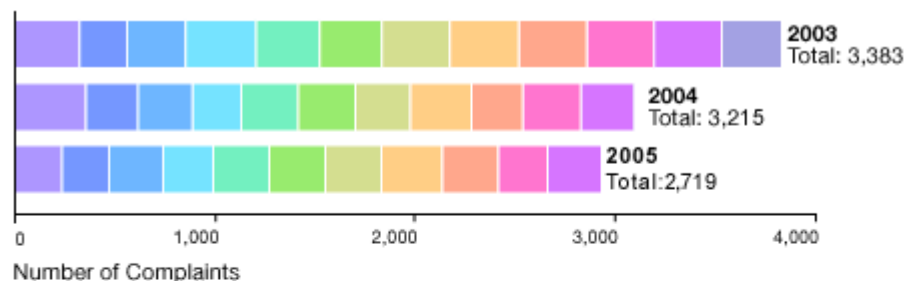
Appendix III

The Monitoring of Completed CAPO
Investigations on Police Complaints by the IPCC



Appendix IV

Number of Complaints* Against the Police Registered by CAPO
in the Years 2003, 2004 and 2005



Month	2003	2004	2005
January	358	238	276
February	258	236	205
March	274	270	200
April	240	249	253
May	284	281	259
June	286	280	213
July	273	281	197
August	304	305	242
September	255	279	243
October	289	243	214
November	267	271	229
December	295	282	188
Total	3,383	3,215	2,719

Note : The figures for 2003 and 2004 have been adjusted to take account of cancellation, consolidation, etc.

* A complaint may consist of more than one allegation.

Appendix V

Origin of Complaints* Received in the Years 2003, 2004 and 2005



	2003 (% of total)	2004 (% of total)	2005 (% of total)
A. Reported to CAPO in person or by telephone	1,743 (51.5)	1,398 (43.5)	1,095 (40.3)
B. Reported to a Police Station in person or by telephone	968 (28.6)	960 (29.9)	916 (33.7)
C. Reported by letter or email (to the Commissioner of Police, Box 999, CAPO or Police Formation)	235 (6.9)	209 (6.5)	204 (7.5)
D. Complaints made at Prisoner Reception Centres/in Prisons	56 (1.7)	42 (1.3)	14 (0.5)
E. Received via ICAC	4 (0.1)	6 (0.2)	8 (0.3)
F. Received via LEGCO, Solicitors	17 (0.5)	20 (0.6)	14 (0.5)
G. Received via Judiciary	335 (9.9)	544 (16.9)	446 (16.4)
H. Received via Police Public Relations Bureau/ Press/Radio	7 (0.2)	7 (0.2)	6 (0.2)
I. Received via other Government Departments	8 (0.2)	2 (0.1)	8 (0.3)
J. Received via the IPCC	4 (0.1)	22 (0.7)	8 (0.3)
K. Others	6 (0.2)	5 (0.2)	0 (0)
Total reports received	3,383 (100.0)	3,215 (100.0)	2,719 (100.0)

Note 1 : The figures for 2003 and 2004 have been adjusted to take account of cancellation, consolidation, amendments etc. following subsequent investigation.

Note 2 : Percentage shares may not add up to the total due to rounding.

* A complaint may consist of more than one allegation.

Appendix VI

Nature of Complaints* Received in the Years 2003, 2004 and 2005
(According to Initial Categorization)



	2003 (% of total)	2004 (% of total)	2005 (% of total)
A. Assault	588 (17.4)	656 (20.4)	541 (19.9)
B. Misconduct/Improper Manner/Offensive Language	922 (27.3)	958 (29.8)	860 (31.6)
C. Neglect of Duty	1,449 (42.8)	1,138 (35.4)	960 (35.3)
D. Unnecessary Use of Authority	173 (5.1)	159 (4.9)	144 (5.3)
E. Fabrication of Evidence	167 (4.9)	162 (5.0)	114 (4.2)
F. Threat	65 (1.9)	124 (3.9)	88 (3.2)
G. Other Offences	9 (0.3)	7 (0.2)	4 (0.1)
H. Police Procedures	10 (0.3)	11 (0.3)	8 (0.3)
Total	3,383 (100.0)	3,215 (100.0)	2,719 (100.0)

Note : The figures for 2003 and 2004 have been adjusted to take account of cancellation, consolidation, etc.

Note : Percentage shares may not add up to the total due to rounding.

* A complaint may consist of more than one allegation.

Appendix VII

Position as at 31.12.2005 on the Processing of
CAPO Investigation Reports Received in 2005

Vetting Team	Team 1	Team 2	Team 3	New Territories	Total
(a) No. of cases endorsed by the IPCC	811	865	877	62	2,615*
(b) No. of cases returned to CAPO for comments	22	9	18	0	49
(c) No. of examined cases under circulation/in the process of being circulated to IPCC Members	25	52	30	0	107
(d) No. of cases being/to be examined	94	46	72	0	212
Total no. of cases received from CAPO	952	972	997	62	2,983

* The figure of 2,615 represents those investigation reports received in 2005 and endorsed within the same year.

Appendix VIII

Nature of Allegations Endorsed by the IPCC
in the Years 2003, 2004 and 2005

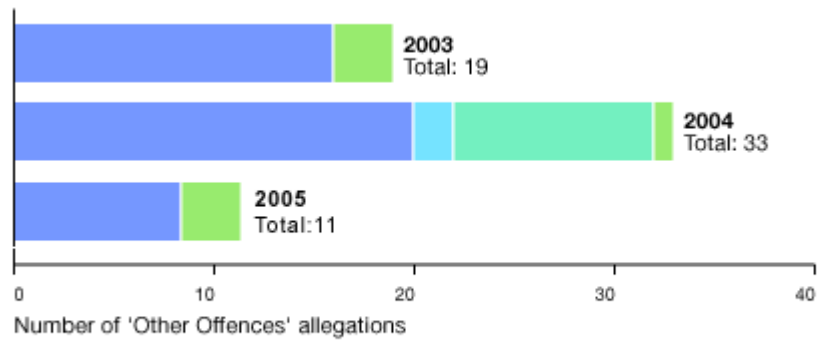


	2003 (% of total)	2004 (% of total)	2005 (% of total)
● A. Assault	714 (11.4)	776 (13.3)	710 (15.1)
● B. Misconduct/Improper Manner/Offensive Language	2,314 (37.0)	2,105 (36.1)	1,817 (38.7)
● C. Neglect of Duty	2,212 (35.3)	1,983 (34.0)	1,412 (30.1)
● D. Unnecessary Use of Authority	532 (8.5)	482 (8.3)	344 (7.3)
● E. Fabrication of Evidence	230 (3.7)	243 (4.2)	201 (4.3)
● F. Threat	204 (3.3)	197 (3.4)	182 (3.9)
● G. Other Offences (See Appendix VIII(a))	19 (0.3)	33 (0.6)	11 (0.2)
● H. Police Procedures	37 (0.6)	18 (0.3)	18 (0.4)
Total no. of allegations	6,262 (100.0)	5,837 (100.0)	4,695 (100.0)

Note : Percentage shares may not add up to the total due to rounding.

Appendix VIII (a)

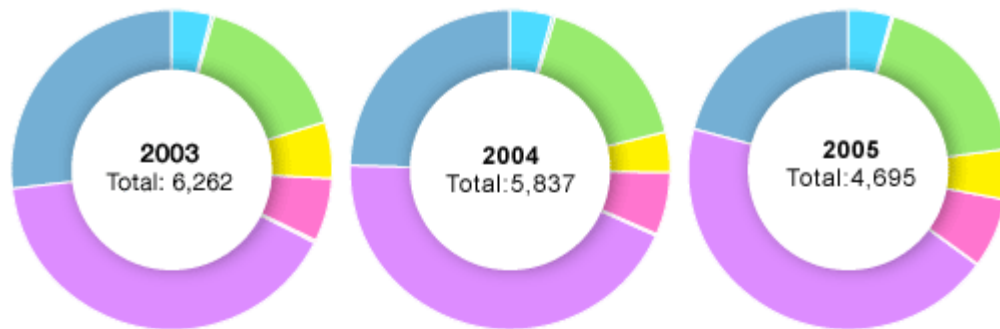
Breakdown of 'Other Offences' allegations:



	2003	2004	2005
(i) Involvement in Deception Cases and/or Criminal Syndicate/Unlawful Society	0	0	0
(ii) Theft Ordinance	16	20	7
(iii) Dangerous Drug Ordinance	0	0	0
(iv) Perverting the Course of Justice	0	2	2
(v) Rape/Indecent Assault	0	10	2
(vi) Other Crime Ordinances	3	1	0
(vii) Others	0	0	0
Total	19	33	11

Appendix IX

Results of Investigations Endorsed by the IPCC
for the Years 2003, 2004 and 2005



	2003 (% of total)	2004 (% of total)	2005 (% of total)
A. Substantiated/Substantiated Other Than Reported	265 (4.2)	253 (4.3)	145 (3.1)
B. Not Fully Substantiated	21 (0.3)	14 (0.2)	8 (0.2)
C. Unsubstantiated	1,040 (16.6)	1,070 (18.3)	854 (18.2)
D. False	255 (4.1)	296 (5.1)	244 (5.2)
E. No Fault	395 (6.3)	410 (7.0)	271 (5.8)
F. Curtailed	12 (0.2)	5 (0.1)	25 (0.5)
G. Withdrawn/Not Pursuable	2,735 (43.7)	2,570 (44.0)	2,246 (47.8)
H. Informal Resolution	1,539 (24.6)	1,219 (20.9)	902 (19.2)
Total no. of allegations	6,262 (100.0)	5,837 (100.0)	4,695 (100.0)

Note : Percentage shares may not add up to the total due to rounding.

Appendix X

Analysis of Fully Investigated Allegations Endorsed
by the IPCC in 2003, 2004 and 2005

Year	2003		2004		2005		
Results of Investigation	No. of Allegations	Number	Percentage to Total No. of Fully Investigated Allegations	Number	Percentage to Total No. of Fully Investigated Allegations	Number	Percentage to Total No. of Fully Investigated Allegations
(I) Allegations that Belong to the 'Substantiated' Category							
Substantiated		113	5.7%	108	5.3%	66	4.3%
Substantiated Other Than Reported		152	7.7%	145	7.1%	79	5.3%
Not Fully Substantiated		21	1.1%	14	0.7%	8	0.5%
Sub-total		286	14.5%	267	13.1%	153	10.1%
(II) Other Allegations which are Fully Investigated							
False		255	12.9%	296	14.5%	244	16.0%
No Fault		395	20.0%	410	20.1%	271	17.8%
Unsubstantiated		1,040	52.6%	1,070	52.4%	854	56.1%
Total No. of Fully Investigated Allegations		1,976 (100.0%)		2,043 (100.0%)		1,522 (100.0%)	

Note : Percentage shares may not add up to the total due to rounding.

Appendix XI

Number of Allegations by Nature and by Results of Investigations
as per CAPO Reports Examined by the IPCC in 2005

Nature of Allegation	Substantiated/		Unsubstantiated	False	No Fault	Curtailed	Not		Total
	Other Than Reported	Not Fully Substantiated					Pursuable/ Withdrawn	Informal Resolution	
Assault	0 (0)	1 (0.1)	42 (5.9)	63 (8.9)	8 (1.1)	5 (0.7)	591 (83.2)	0 (0)	710 (100.0)
Misconduct/ Improper Manner/ Offensive Language	15 (0.8)	1 (0.1)	422 (23.2)	35 (1.9)	27 (1.5)	10 (0.6)	750 (41.3)	557 (30.7)	1,817 (100.0)
Neglect of Duty	121 (8.6)	5 (0.4)	286 (20.3)	13 (0.9)	179 (12.7)	8 (0.6)	518 (36.7)	282 (20.0)	1,412 (100.0)
Unnecessary Use of Authority	4 (1.2)	0 (0)	65 (18.9)	5 (1.5)	50 (14.5)	1 (0.3)	161 (46.8)	58 (16.9)	344 (100.0)
Fabrication of Evidence	0 (0)	0 (0)	20 (10.0)	105 (52.2)	1 (0.5)	0 (0)	75 (37.3)	0 (0)	201 (100.0)
Threat	0 (0)	0 (0)	18 (9.9)	23 (12.6)	0 (0)	0 (0)	140 (76.9)	1 (0.5)	182 (100.0)
Other Offences (Note 4)	0 (0)	1 (9.1)	1 (9.1)	0 (0)	1 (9.1)	1 (9.1)	7 (63.6)	0 (0)	11 (100.0)
Police Procedures	5 (27.8)	0 (0)	0 (0)	0 (0)	5 (27.8)	0 (0)	4 (22.2)	4 (22.2)	18 (100.0)
Total	145	8	854	244	271	25	2,246	902	4,695

Note 1: Figures in brackets denote percentages to total allegations of the same nature.

Note 2: Percentage shares may not add up to the total due to rounding.

Note 3: In respect of the 8 allegations of 'Assault' which were classified as 'No Fault', there was sufficient evidence to indicate that the use of force by the complainees was reasonable and justifiable.

Note 4

Breakdown of 'Other Offences' Allegations by Results of Investigations

Nature of Allegation	Substantiated/ Other Than Reported	Not Fully Substantiated	Unsubstantiated	False	No Fault	Curtailed	Not Pursuable/ Withdrawn	Informal Resolution	Total
Theft Ordinance	0	0	0	0	0	0	7	0	7
Involvement in Deception Cases and/ or Criminal Syndicate/ Unlawful Society	0	0	0	0	0	0	0	0	0
Perverting the Course of Justice	0	0	1	0	1	0	0	0	2
Dangerous Drug Ordinance	0	0	0	0	0	0	0	0	0
Rape/Indecent Assault	0	1	0	0	0	1	0	0	2
Other Crime Ordinances	0	0	0	0	0	0	0	0	0
Others	0	0	0	0	0	0	0	0	0
Total	0	1	1	0	1	1	7	0	11

Appendix XII

Criminal/Disciplinary Proceedings and Internal Actions Taken by Police in respect of Cases Endorsed in the Years 2003, 2004 and 2005

A For 'Substantiated', 'Substantiated Other Than Reported' and 'Not Fully Substantiated' Complaints

(i) Criminal proceedings instituted	No. of Officers		
	2003	2004	2005
Acquitted	0	0	0
Nolle Prosequi	0	0	0
Offer no evidence	0	0	0
Convicted with absolute discharge	0	0	0
Convicted with conditional discharge	0	0	0
Bound over	0	0	0
Probation	0	0	0
Fine	0	0	0
Suspended sentence	0	0	0
Custodial sentence	1	0	0
Trial is pending and outcome is not yet known	0	0	0
Others	0	0	0
	1	0	0
(ii) Disciplinary proceedings instituted			
Acquitted	9	0	0
Conviction recorded but no punishment	0	0	0
Caution	13	4	2
Caution, suspended	2	0	0
Reprimand	5	2	0
Reprimand, suspended	0	1	0
Severe reprimand	6	0	1
Severe reprimand, suspended	0	0	0
Warned for dismissal	0	0	0
Dismissed	2	0	0
Hearing is pending and outcome is not yet known	0	2	16
Others	1	0	0
	38	9	19
(iii) Action by Formation Commanders			
Warning given to police officers concerned	23	17	9
Advice given to police officers concerned	244	279	145
	267	296	154
Total ((i) + (ii) + (iii)) *	306	305	173

B For other complaints where some form of Disciplinary Proceedings/ Internal Action was considered necessary

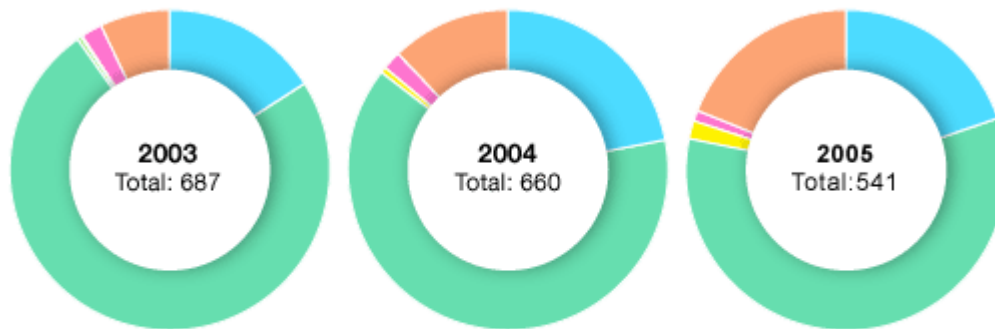
	No. of Officers		
	2003	2004	2005
(i) Criminal proceedings	0	0	0
(ii) Disciplinary proceedings	0	0	0
(iii) Warning given to police officers concerned	1	1	0
(iv) Advice given to police officers concerned	20	25	25
Total	21	26	25

Note : The figures for 2003 and 2004 have been adjusted following case review.

* This figure does not include 'Substantiated' complaints directed against the Police Force/Police procedures, unidentified officers and officers no longer serving in the Police Force.

Appendix XIII

Nature of Queries/Suggestions Raised by the IPCC in 2003, 2004 and 2005



Nature of queries/suggestions raised by the IPCC				
Nature	2003	2004	2005	
1. Results of Investigation	151	130	93	
2. Thoroughness of Investigation/Clarification of Ambiguous Points in the CAPO Reports/ CAPO Case Files	436	386	342	
3. Grounds for the Exercise of Constabulary Powers	0	0	0	
4. Compliance with Police Practices/Procedures	4	12	1	
5. Suggested Improvement to Police Procedures	13	7	9	
6. Other Queries	83	125	96	
Total Number of Points Raised	687	660	541	

A query/suggestion raised by the IPCC may contain more than one point.

Out of 381 query points accepted by CAPO, 64 results of investigations were changed in 2005. The corresponding figures for 2003 and 2004 were 105 and 89 respectively.