

監警會通訊 IPCC Newsletter

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 獨立監察警方處理投訴委員會
Independent Police Complaints Council

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監警會觀察員 看得到的公義

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作為投訴警察的獨立監察機構，監警會的職能是觀察、監察和覆檢警務處處長就須匯報投訴的處理和調查工作。監警會委員的主要工作是審核調查報告，而觀察投訴警察課的調查工作就有賴監警會觀察員出席警方進行的調查會面和證據收集工作，確保調查工作公平公正。監警通訊訪問了監警會副秘書長周允強先生，以及三位觀察員顧明仁博士、黃江天博士和蘇慧賢女士，了解觀察員的工作和感受。

監警會副秘書長周允強解釋：「觀察員計劃始於1996年，旨在加強監警會的監察職能，協助監警會觀察投訴警察課處理和調查須匯報投訴的過程。計劃初期觀察員只限於監警會委員，至1999年才在委員以外任命了29位觀察員。觀察員數目隨後逐步遞增，現時監警會共有110名觀察員及24位監警會委員可出席投訴調查會面以及證據收集工作。」

顧明仁博士自1998年起已獲委任為觀察員，共觀察逾1,000次調查會面和證據收集工作。2001年至2007年，顧博士更獲委任為監警會委員。顧明仁博士道：「早年很多人對觀察員計劃不太認識，常常誤以為觀察員是投訴警察課的人，導致很多投訴人或警務人員均拒絕讓觀察員出席他們的會面。但在警方和監警會的努力宣傳後，這類誤解已很少出現。」

本身是律師和調解員的黃江天博士在監警會成為法定機構前已加入監警會任觀察員。擔任觀察員四年以來，黃博士認為最大的挑戰是在觀察會面的過程中，保持中立持平的態度，不受會面者的行為和說話左右。黃博士說：「在會面時，投訴人往往會希望爭取其他人士的認同，很多時會望向觀察員尋求認同或問觀察員意見。作為觀察員一定要保持公平公正，不可偏袒任何一方，對當事人表示同情之餘，千萬不可在觀察過程中表露對事情的任何判斷。」

As an independent body monitoring police complaints, IPCC's functions include observing, monitoring and reviewing the handling and investigation of reportable complaints by the Commissioner of Police. The main function of IPCC members is to examine investigation reports. Observing Complaints Against Police Office's investigations is the work of IPCC's Observers, who attend interviews and observe the collection of evidence by the Police. This ensures that investigations are carried out in a fair and impartial manner. The IPCC Newsletter conducted an interview with the IPCC Deputy Secretary-General, Mr Brandon Chau, and three Observers, Dr Charles Koo, Dr James Wong and Ms Herdy So, to find out about their work and their experience.

Deputy Secretary-General Mr Brandon Chau explained, "The Observers Scheme started in 1996. The aim is to strengthen the monitoring function of the IPCC by assisting it in observing CAPO's handling and investigation of reportable complaints. At the beginning, Observers were limited to IPCC Members. In 1999, 29 Observers who were not members were appointed. The number of Observers has increased steadily since. At present there are a total of 110 Observers and 24 IPCC Members who attend interviews and observe the collection of evidence during complaint investigations."

Dr Charles Koo has served as an Observer since 1998. He has observed interviews and the collection of evidence over 1,000 times. Between 2001 and 2007, Dr Koo was appointed as IPCC Member. He said, "In the early days, many were not familiar with the work of an Observer. They thought Observers were representatives from CAPO. This misunderstanding led to Observers being refused attendance at interviews by complainants or police officers. But after much publicity by the Police and IPCC, such misunderstanding rarely occurs."

A lawyer and a mediator, Dr James Wong joined IPCC as an Observer before it became a statutory body. Having been an Observer for four years, Dr Wong feels the biggest challenge is to maintain a neutral and impartial attitude and not be affected by the behaviour or words exchanged during interviews. Dr Wong said, "During interviews, the complainants tend to look to the Observer for approval or to seek his opinion. An Observer must remain fair and impartial and not side with any party. While being sympathetic, one must not reveal any judgment during the observation process."

蘇慧賢女士成為觀察員一年以來，已出席了200多次會面。她認為警隊其實已經很專業，很多投訴均性質輕微。如部分投訴人在非緊急的情況下致電999報案中心，用很重的語氣質問塞車原因和情況，言語間的誤會便引起投訴。亦曾有個案是報案中心的同事在通話完後，沒有明確表示通話完畢便掛線，又引起投訴。其實市民如多點包容，很多投訴是可以避免的。

投訴調查的改善空間方面，顧博士和黃博士均認為，警方可以加強負責調查投訴警員的發問技巧，最好能有輔導和心理調解方面的經驗和知識，處理投訴人在會面時的負面情緒。此外，他們均希望警方考慮多採用錄影會面，有效記錄會面情況，確保調查中立公正。

在投訴人方面，三位觀察員希望市民多加包容。現時投訴警察的門檻很低，市民稍有不滿便會投訴。其實警察執法很容易會引起衝突。無論多輕微的投訴，每個投訴調查均要運用很多人力物力去處理和調查，所以希望市民不要濫用投訴機制。

最後，三位觀察員均表示出任觀察員是一項很有意義的工作。顧博士和蘇女士均認為觀察警察投訴可以了解社會的情況，認識警隊的運作。黃博士稱公義是要看得到的，觀察員計劃正彰顯出投訴警察個案獲公平公正地處理，是看得到的公義。



觀察員的資格

監警會觀察員是由保安局局長委任。為確保觀察員的中立角色，以下人士均不會被委任為觀察員：

- 在政府政策局或部門擔任受薪職位(不論屬長設或臨時性質)的人士
- 秘書長、法律顧問或監警會任何其他僱員
- 曾屬警隊成員的人士

During the year Ms Herdy So has been an Observer she has attended over 200 interviews. She feels the Police Force is very professional and many of the complaints are quite minor. For example, some complainants call the 999 Report Centre in non-emergency situations, questioning the reason for traffic congestion in an accusing tone. Any misunderstanding in the exchange of words could result in a complaint. There was a case in which an officer in the Report Centre hung up before indicating clearly that the conversation was over. This resulted in a complaint. If the public could be more understanding, many complaints could be avoided, Ms So believes.

As for areas with room for improvement in investigating complaints, both Dr Koo and Dr Wong feel the Police should sharpen the investigating officers' skills in asking questions. It would be best if they had experience and knowledge of psychology as well as counseling and mediation techniques to handle the negative emotions of complainants during interviews. Furthermore, they hope the Police will consider increasing their use of video recording during interviews, to provide accurate documentation and ensure that investigations are neutral and fair.

In terms of complaints, all three Observers hope the public will be more understanding. At the moment, the threshold for complaints is very low. Many people lodge complaints over minor dissatisfactions. Confrontation easily arises during the execution of police duties. However minor a complaint, its handling and investigation involve a lot of manpower and resources. It is hoped that the public will not abuse the complaint system.

Lastly, all three Observers agree that being an Observer is meaningful work. Dr Koo and Ms So both feel that observing police complaint investigations makes them more aware of what is happening in the society and how the Police operate. According to Dr Wong, justice must be seen to be done. The Observers Scheme highlights the fair and just handling of police complaints. This is justice that can be seen.

Eligibility of Observers

IPCC's Observers are appointed by the Secretary for Security. To ensure their impartiality, the following persons are not eligible for appointment as Observers:

- Anyone who holds an office of emolument, whether permanent or temporary, in a Government bureau or department.
- The Secretary-General, the Legal Advisor or any other employee of the Council.
- Any former member of the Police Force.

觀察員的職責

觀察員的職責是觀察任何警方為了調查投訴而與投訴人、被投訴人或證人進行的會面，以及證據收集工作。除了預先安排的會面和證據收集工作外，觀察員亦可以在突擊的情況下，出席和觀察警方這些活動。

觀察員的角色是觀察和匯報，基於公平公正的原則，在觀察會面及證據收集行動期間，觀察員不會作出任何干預或發表個人意見，以防影響會面或證據收集的進行。

在觀察完畢後，觀察員須向監警會報告會面或證據收集是否公平公正地進行，以及有否察覺任何不當之處。若觀察員匯報有任何不當之處，監警會便會和投訴警察課跟進。

Function of Observers

The function of an Observer is to attend interviews with complainants, complainees and witnesses, and observe the collection of evidence in connection with CAPO's investigations of reportable complaints. The observations can be carried out on a pre-arranged or surprise basis.

The role of an IPCC Observer is primarily to observe and report. To ensure fairness and impartiality, Observers will not interfere with the conducting of interviews or the collection of evidence, or express personal opinions during the process.

After each observation, the Observer will submit a report to IPCC stating whether the interview or collection of evidence was conducted in a fair and impartial manner, and if any irregularities were detected. Should any irregularities be reported, IPCC will follow up with CAPO.

新任命的觀察員 (任期2011年9月1日至2013年8月31日) Names of the newly appointed observers (1 Sep 2011 to 31 Aug 2013)

- | | |
|--------------------------------|-----------|
| 1. Mr Charles CHEUNG Cheuk-yiu | 張焯堯先生 |
| 2. Mr Jackie CHEUNG Yick-hung | 張翼雄先生 |
| 3. Mr CHONG Chong-yip | 莊創業先生 |
| 4. Miss Abril CHOY Fung-peng | 蔡鳳萍女士 |
| 5. Mr CHU Tak-wing | 朱德榮先生 |
| 6. Mr LAW King-shing, MH | 羅競成先生, MH |
| 7. Ms LEE Koon-mei | 李冠美女士 |
| 8. Mr LEUNG Ho-kwan, MH | 梁皓鈞先生, MH |
| 9. Ms Martha LEUNG Sau-ching | 梁秀清女士 |
| 10. Mr SZETO Kin-wa | 司徒建華先生 |
| 11. Miss Alice TO Kar-wing | 陶嘉穎女士 |
| 12. Mr WONG Kin-hing | 黃健興先生 |

再獲任命的觀察員 (任期2011年9月1日至2013年8月31日) Names of the re-appointed observers (1 Sep 2011 to 31 Aug 2013)

- | | |
|------------------------------------|----------------|
| 1. Mr Star CHAN Lu-seng, SBS, JP | 陳耀星先生, SBS, JP |
| 2. Mr HUI Ka-hoo, MH | 許嘉灝先生, MH |
| 3. Mr KO Kam-cheung, BBS, MH | 高錦祥先生, BBS, MH |
| 4. Mr David LAI Tat-sang, MH, JP | 黎達生先生, MH, JP |
| 5. Mr LAM Tak-leung, MH | 林德亮先生, MH |
| 6. Mr LEUNG Sau-chi, JP | 梁秀志先生, JP |
| 7. Mr PUK Kwan-kin | 卜坤乾先生 |
| 8. Mr Aaron WAN Chi-keung, BBS, JP | 尹志強先生, BBS, JP |
| 9. Dr James WONG Kong-tin | 黃江天博士 |
| 10. Rev David YEUNG Hok-ming | 楊學明牧師 |
| 11. Mrs YUEN CHAN Po-hing | 阮陳寶馨女士 |

任期於2011年8月31日屆滿的觀察員 Names of outgoing observers (term of appointment ends on 31 Aug 2011)

- | | |
|--------------------------------------|-----------------|
| 1. Mr Jacky CHAN Kwok-kai, BBS | 陳國旗先生, BBS |
| 2. Mr David CHAN Wai-ming, MH, JP | 陳偉明先生, MH, JP |
| 3. Mr William CHAN Wing-lim, JP | 陳榮濂先生, JP |
| 4. Ms CHEUNG Sik-yung | 張錫容女士 |
| 5. Ms Lusan HUNG Lo-shan | 熊璐珊女士 |
| 6. Ms LAM Kwai-lan | 林桂蘭女士 |
| 7. Mrs Peggy LAM PEI Yu-dja, GBS, JP | 林貝聿嘉女士, GBS, JP |
| 8. Miss Susanna LEE Wai-yan | 李偉恩女士 |
| 9. Mr Joseph PANG Yuk-wing, JP | 彭玉榮先生, JP |
| 10. Miss Candy TAI Yee-man | 戴依雯女士 |
| 11. Mr Chris YIP Yiu-shing, MH | 葉曜丞先生, MH |

最新活動 Recent Activities

委員會早前建議監警會積極參與警方內部投訴處理及預防方面的工作。今年6、7月開始，委員隨服務質素監察部黃福全助理署長到訪各區警署，並參與警方研究預防投訴警察委員會會議。此外，監警會在過去數月亦積極會見傳媒，講解監警會工作，詳情如下：

The Council had previously suggested to participate in the Police's complaints prevention work. Starting last June and July, Council Members joined Mr Wong Fook-chuen, the Assistant Commissioner of Police, Service Quality, in visiting various police formations and participating in the meetings of the Complaints Prevention Committees. In addition, the Council proactively met with the media in the past few months to explain the Council's work. Details are as follows:

6月 June



6月21日 21 June

探訪西區警署 Visit Western Formation

張達明委員和林志傑醫生到訪西區警署，並和前線警員分享投訴處理的觀察和經驗。
Members Mr Eric Cheung Tat-ming and Dr Lawrence Lam Chi-kit visited the Western Formation and shared their views and experience on handling complaints with frontline police officers.

6月24日 24 June

探訪秀茂坪警署 Visit Sau Pau Ming Formation

葉振都委員到訪秀茂坪警署。
Member Mr Adrian Yip Chun-to visited the Sau Mau Ping Formation.



6月29日 29 June

探訪屯門警署 Visit Tuen Mun Formation

馬學嘉博士到訪屯門警署。
Dr Carol Ma Hok-ka visited the Tuen Mun Formation.

7月6日 6 July

『監警會通訊』第三期傳媒簡布會 Media Briefing for IPCC Newsletter Issue No. 3

會方在7月6日推出第三期的『監警會通訊』，並於當日舉行傳媒簡布會介紹通訊內容。簡布會當日，監警會宣傳及意見調查委員會主席鄭經翰先生在秘書長朱敏健先生陪同下，向傳媒朋友講解委員會的最新發展和通訊的內容。傳媒反應熱烈，簡布會內容獲廣泛報導。

IPCC released the third IPCC Newsletter on July 6, and held a media briefing to introduce its contents to the media. At the briefing, Publicity and Survey Committee Chairman Mr Albert Cheng, together with Secretary-General Mr Ricky Chu, introduced the IPCC's latest developments and the newsletter to members of the media. The briefing was warmly received and widely reported by the media.



7月 July

7月17日 17 July

新界南總區研究預防投訴警察委員會會議

New Territories South Region's Complaints Prevention Committee meeting

葉成慶律師和葉振都委員參與新界南總區研究預防投訴警察委員會會議，了解警方如何在工作層面預防不必要的投訴。

Members Mr Ip Shing-hing and Mr Adrian Yip Chun-to joined the New Territories South Region's Complaints Prevention Committee meeting, to learn how the Police prevent unnecessary complaints at the working level.

8月 August

8月8日 8 August

明報推出監警透視專欄

Ming Pao Column "IPCC Digest"

監警會8月份開始和明報合作，一連八星期每逢周一在港聞版刊登監警會專欄『監警透視』，深入淺出地介紹監警會的工作，及分享審核個案的觀點。隨著『監警透視』的推出，明報亦就不同的議題訪問了李國麟副主席、張達明委員及朱敏健秘書長。

Starting in August, the IPCC partnered with Ming Pao to publish a weekly column called "IPCC Digest" (《監警透視》) in the newspaper's local news section. The column published every Monday for eight consecutive weeks, and introduced the IPCC's work and shared views relating to case investigations. In association with the "IPCC Digest", Ming Pao interviewed Vice Chairman Dr the Hon Joseph Lee Kwok-long, Member Mr Eric Cheung Tat-ming, and Secretary-General Mr Ricky Chu on various subjects.



8月12日 12 August

探訪水警總區

Visiting the Marine Region

翟紹唐主席、李國麟副主席、林志傑醫生、馬恩國律師、黃幸怡女士和黃碧雲博士一同參加了此次活動。水警總區代表展示他們的設備，會後委員和水警總區代表小組交流。

Chairman Mr Jat Sew-Tong, Vice Chairman Dr the Hon Joseph Lee Kwok-long, Members Dr Lawrence Lam Chi-kit, Mr Lawrence Ma Yan-kwok, Miss Sandy Wong Hang-ye, and Dr Helena Wong Pik-wan participated in a visit to the Marine Region. Representatives of the Marine Region showcased their facilities during the visit. IPCC Members and representatives from the Marine Region of the Police exchanged views afterwards.

8月25日 25 August

探訪元朗警署

Visit Yuen Long Formation

張達明委員到訪元朗警署。

Member Mr Eric Cheung Tat-ming visited the Yuen Long Formation.



9月1日 1 September
 監警會和投訴警察課聯席會議

Joint IPCC & CAPO Open Meeting

在是次聯席會議，警方向監警會委員報告副總理訪港安排的相關投訴性質、數字，調查範圍及進度。會上多位委員查詢警方調查這類個案的處理手法和如何確保調查是公平公正地進行。當日的會議有多家電視台直播，會議內容亦獲廣泛報導。此外，委員在會上亦討論處理市民抒發不滿的草擬機制。

At the Joint Meeting, the Police reported the nature, number, areas and progress of investigations into complaints received regarding the security measures implemented during the Vice Premier's visit to Hong Kong. Council Members questioned the Police about their handling of similar cases and ways to ensure that the investigations would be fairly and justly conducted. Several TV stations live broadcast the meeting, and the meeting received wide coverage from other media as well. Members also discussed a proposed protocol for expression of dissatisfaction.



9月28日 28 September

探訪鐵路警區
 Visit Railway District

張達明委員到訪鐵路警區。

Member Mr Eric Cheung Tat-ming visited the Railway District.

10月17日 17 October

浩園秋祭
 Autumn Tribute at the Gallant Garden

委員梁繼昌參與香港警務督察協會安排的浩園秋祭。

Member Kenneth Leung Kai-cheong joined the Hong Kong Police Inspectors' Association to attend the Autumn Tribute at the Gallant Garden.



10月28日 28 October

與警隊高層聯繫 Engaging Senior Officers of the Police

監警會委員和警務處處長等警隊高層午膳交流。
IPCC Members engaged with Commissioner of Police and other senior officers in a lunch gathering for views exchange.



傳媒訪問 Media Interviews

除了明報的『監警透視』專欄外，翟紹唐主席亦就警方在副總理訪港的安排一事接受了香港電台、無線電視、有線電視、Now TV、蘋果日報和明報的訪問，告訴公眾監警會非常關注事件及其跟進工作。朱敏健秘書長和周允強副秘書長亦接受了明報、東方日報、太陽報、香港經濟日報和星島日報的訪問，介紹監警會的工作和嚴重投訴個案委員會的情況。

Apart from Ming Pao's "IPCC Digest", Chairman Mr Jat Sew-tong was also interviewed by RTHK, TVB, Cable TV, Now TV, Apple Daily and Ming Pao on the police security measures taken during the Vice Premier's visit to Hong Kong. During the interviews Mr Jat expressed the IPCC's serious concerns regarding the incident and explained its follow-up work. Secretary-General Mr Ricky Chu and Deputy Secretary General Mr Brandon Chau were also interviewed by Ming Pao, Oriental Daily, Sun Daily, Hong Kong Economic Times, and Sing Tao Daily, and introduced the work of the IPCC and the Serious Complaints Committee to the media.



良好溝通有助減少投訴

Effective communication helps reduce complaints

在過去的一年，我以觀察員的身份觀察過不少投訴警察課的投訴調查會面，讓我更了解警方在執行職務時的職能及程序，同時亦更明白市民對警隊服務的期望。

在觀察的過程中，我發現很多投訴個案均是警民溝通的誤差所致。然而雙方經過溝通後，大部份作出投訴的市民，最後都能諒解警隊的工作。若果警方在執行職務時能與市民有良好的溝通，相信投訴個案的數字亦會減少。

每個龐大的團隊，總有可以改善之處或有少數未能完善地履行職務的成員，投訴機制發揮到監察警察團隊服務質素的作用。觀察員計劃能確保投訴調查過程在公開、公平、公正的情況下進行，投訴警察課客觀地跟進投訴人的個案。

在過往的觀察過程中，我亦偶然遇到一些投訴個案，投訴人並非真誠地作出投訴，而是藉著投訴來達致其他目的。此舉不單浪費資源，亦影響被投訴警務人員的士氣。此風一長，便可能令部分前線警務人員在執行職務時，因怕遭市民投訴而畏首畏尾，到最後受害的都是市民大眾。我希望前線的警務人員執勤時以平常心秉公處理，不要因害怕被投訴而影響工作。因為投訴個案在監警會的監察下會得到公平公正的處理。

我期望觀察員計劃能協助監警會有效監察及提升警隊的服務質素，投訴個案陸續減少，警民關係及社會更和諧、更融洽。

作者：蘇慧賢女士於 2010年8月1日獲委任為監警會觀察員

監警觀點是一個讓監警會委員、觀察員及秘書處職員表達意見的平台，歡迎來稿。詳情請電 2862-8213或電郵 prm@ipcc.gov.hk。

In the past year I have attended, as an Observer, numerous interviews conducted by CAPO in the investigation of reportable complaints. The experience has given me a better understanding of police functions and procedures in the execution of their duties, and the expectations the public hold for their Police Force.

In my observation, many complaints stemmed from miscommunication between the Police and the public. Nevertheless after proper communication, many complainants became more understanding towards the work of the Police Force. I believe that in the execution of their duties, if the Police are able to communicate effectively with the public, the number of complaints will be reduced.

In every team of considerable size, there will always be room for improvement and some members that do not perform their duties properly. The complaint system serves the function of monitoring the service quality of the Police Force. The Observers Scheme ensures that complaint investigations are conducted in an open, fair and impartial manner, and that CAPO's follow-up of complaint cases is carried out objectively.

In my past observations, I occasionally came across cases with disingenuous complainants who had other motives for lodging their complaints. This not only wasted resources, but also affected the morale of the police officers. If this becomes prevalent, the police officers, fearing complaints by the public, may become over-cautious in the execution of their duties. Ultimately it will be the public who will suffer. I hope frontline officers will carry out their duties in an unbiased and impartial manner and not allow the fear of complaints to affect their work, knowing that complaint cases will be dealt with fairly and justly under the monitoring of the IPCC.

I hope the Observers Scheme will help the IPCC effectively monitor and raise the service quality of the Police Force; the number of complaint cases will drop; and the relationship between the Police, the public and society will be more harmonious.

Author: Ms. Herdy So Wai-yin was appointed IPCC Observer on August 1, 2010.

Viewpoint from IPCC is a column which allows IPCC Members, Observers and Secretariat staff to share views. For article submission, please call 2862-8213 or email prm@ipcc.gov.hk

覆檢投訴向警提建議

Review Complaints and Make Suggestions to the Police

監警會是於09年6月按《獨立監察警方處理投訴委員會條例》成立的獨立法定機構(前身是警監會)，其職能是監察警務處，確保市民對警員的投訴獲警方妥善調查及處理。

手握審核權沒有調查權

市民常誤以為監警會有調查權力，其實監警會「只有審核權、沒有調查權」，故市民若對警方執法有不滿，一般仍需親身向警務處的投訴警察課投訴。

監警會強調市民可放心，因監警會會仔細審查覆核每一宗涉及警察投訴的警方調查結果，若存有疑問或意見分歧，監警會將向警方質詢，要求提供進一步資料，甚至可要求警方改變調查結論。

若投訴最終證明警員做法不妥甚至違規，警方會決定作出相應紀律行動。而監警會去年共審核並通過了7,952項投訴警員的指控，較前年大升57.3%。雖然監警會不能決定如何處分有問題警員，但監警會審核及處理投訴時，有權力及責任找出警隊工作常規或程序中可能會引發投訴的不足之處，然後向警務處長提出改善建議，以堵塞制度漏洞。

以引起公眾關注的「警察在觀塘繞道徵用市民車輛攔截非法賽車」事件為例，雖然無人向警方投訴，但鑑於事涉市民安全，故監警會主動向警方跟進，至最後警方決定修訂《警察通例》及《處長指令》，列明警員日後在任何情況下，都再不能純為堵塞道路或截停目標車而截停或徵用市民車輛，加強保障市民安全。

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The IPCC is an independent statutory body established under the Independent Police Complaints Council Ordinance (IPCCO) in June 2009. Its purpose is to monitor the Police, and to ensure that the public's complaints against the police are appropriately investigated and handled.

The Authority to Review but Not to Investigate

A common misconception is that the IPCC has the authority to investigate. In fact the IPCC "only has the authority to review, but not to investigate". Therefore if members of the public are discontented with the Police, they normally must file a complaint in person with the Complaints Against Police Office.

The IPCC assures the public that it will closely review the results of every investigation into a complaint filed against the Police. If there are doubts or disagreements with the results, the IPCC will request the Police for further explanation and information, or even request that they alter the conclusion drawn from their investigation.

If it is determined that a police officer has mishandled a case or violated any regulation, appropriate disciplinary measures will be taken by the Police. The IPCC reviewed and endorsed 7,952 complaints against police officers last year, a 57.3% surge from the year before. Although the IPCC cannot determine what disciplinary measures should be taken against the police officers in question, the IPCC does have the authority and the responsibility to identify any deficiencies in police practices and procedures that might lead to complaints, to make suggestions to the Commissioner of Police on improvements, and to close the loopholes in the system.

Take for example the widely debated incident in which police used civilian vehicles to block illegal racing on the Kwun Tong Bypass. Although no complaint was filed, the IPCC took the initiative to follow up with the Police out of concern for public safety. In the end the Police amended their "Police General Orders" and "Commissioner's Order", to specify that under no circumstances should police officers use civilian vehicles to block roads or stop targeted vehicles, to ensure public safety.

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真實投訴個案 Real Complaint Case

個案重點

此個案反映監警會在審核投訴個案時，是從個案整體的情況考量，仔細分析投訴警察課的假設再作判斷。即使被列為「旁支事項」的事宜亦會審慎處理。

投訴人涉嫌刑事毀壞而被捕，其後被判無罪，遂投訴警方在未清楚調查事件之前逮捕她乃「疏忽職守」。投訴警察課認為拘捕她的警員在拘捕行動之前，已在現場作出充分的查詢，故決定把指控列為「並無過錯」。投訴警察課在調查時，發現拘捕投訴人的警員在法庭作供時未有根據其筆記如實作供。故此，對該警員加以一項「疏忽職守」的指控，列為「未經舉報但證明屬實」。投訴警察課並忠告為投訴人錄取口供的警員及其直屬上司，在向投訴人澄清其原來的警誡供詞時，需要再警誡投訴人。投訴警察課把錄取口供的警員和其直屬上司的疏忽列為「旁支事項」。

經監警會的質詢後，「並無過錯」的調查結果改為「無法證實」，而「旁支事項」的疏忽指控改為「未經舉報但證明屬實」的「疏忽職守」。

詳細個案

事發當日，投訴人帶同其12歲的兒子到前僱主A先生的店舖，並懷疑以紅色不褪色箱頭筆在金屬餐具上寫上侮辱性字句。警方接報後派遣一隊警員到現場。查詢情況後，一名警員以懷疑刑事毀壞的理由拘捕投訴人。投訴人、其兒子及A先生被一同帶回警署協助調查。這案件由分區調查隊接手處理，並由一名偵緝警員負責調查。

Highlights of the Case

This case demonstrates that the IPCC considers each case in its entirety, and that it will carefully analyse and evaluate the assumptions made by CAPO. Allegations classified as “Outwith” are also prudently reviewed.

The complainant was arrested upon suspicion of criminal damage, but was acquitted after trial. She lodged a “Neglect of Duty” allegation against the arresting officer for his failure to investigate the case thoroughly before arresting her. CAPO, judging that the arresting officer had made sufficient enquiry into the situation at the scene before arresting the complainant, classified the allegation as “No Fault”. Yet CAPO had found that the arresting officer did not give proper testimony in court in accordance with the facts recorded in his notebook. CAPO therefore registered a “Substantiated Other Than Reported” count of “Neglect of Duty” against the arresting officer, and advised the officer that took the complainant’s statement and his supervising officer of the need to caution an arrested person when they sought to clarify what he or she initially said under caution. The matter was registered by CAPO as an “Outwith” matter against this officer and his supervising officer.

After IPCC’s query, the finding of “No Fault” was changed to “Unsubstantiated”, and the negligence pertaining to the “Outwith” matter was reclassified as a “Substantiated Other Than Reported” count of “Neglect of Duty”.

Details of the Case

On the day in question the complainant, with her 12-year-old son, went to the shop of her former employer (Mr A) and allegedly wrote abusive words with a non-erasable red marker pen on some metal utensils. A police report was made, and in response, a police party arrived at the scene. After enquiring into the circumstances, one police officer arrested the complainant upon suspicion of criminal damage, and she, her son and Mr A were taken to a police station for further questioning. The complainant’s case was taken over by a divisional investigative team, with a Detective Police Constable assigned as the investigating officer.

經進一步調查後，投訴人被指其行為構成刑事毀壞，但經審訊後獲判無罪。投訴人不滿警方處理這案件的手法和對她兒子的安排，認為警方在未清楚調查事件之前而當場逮捕她，故向拘捕她的警員提出一項「疏忽職守」的指控；她還投訴另一名呼喝她的警員「不禮貌」；而對第三名警員在未知會她之前送她的兒子回家，以及在警署錄取口供時沒有給她解釋的機會而提出兩項「疏忽職守」的投訴。

調查後，投訴警察課認為拘捕她的警員在拘捕行動之前，已在現場作出充分的查詢才拘捕投訴人，故決定把第一項指控列為「並無過錯」。由於其他指控缺乏獨立證人和佐證以支持或反駁，均列為「無法證實」。此外，投訴警局課在審視有關法庭研訊的紀錄時，發現拘捕投訴人的警員在法庭作供時未有根據其筆記如實作供。故此，對該警員加以一項「疏忽職守」的指控，並列為「未經舉報但證明屬實」。

由於這警員缺乏上庭經驗和在警界資歷尚淺，其指揮官只需訓示他將來上庭作供的重要性。投訴警察課審視後亦忠告錄取口供的警員及其直屬上司(B警長)在向投訴人澄清其原來的警誡供詞時，需要再警誡投訴人。投訴警察課把錄取口供警員和B警長的疏忽列為「旁支事項」。因為他們已得到指揮官的忠告，所以投訴警察課對他們不作進一步行動。

After further investigation, the complainant was charged with the offence of criminal damage, but was acquitted after trial. Dissatisfied with the way the Police handled the case and treated her son, the complainant lodged a "Neglect of Duty" allegation against the arresting officer for his failure to investigate the case thoroughly before arresting her at the scene; she also accused a second police officer of "Impoliteness" for shouting at her, and a third officer with two counts of "Neglect of Duty" for failing to inform her before sending her son back home and for failing to allow her to offer an explanation when her statement was taken at the police station.

After investigation, CAPO classified the first allegation as "No Fault", judging that the arresting officer had made sufficient enquiry into the situation at the scene before arresting the complainant. The other allegations were all classified as "Unsubstantiated" in the absence of independent witnesses or corroborative evidence to support or disprove the allegations. In addition, a "Substantiated Other Than Reported" count of "Neglect of Duty" was registered against the arresting officer, because a review of the acquittal showed that he did not give proper testimony in court in accordance with facts recorded in his notebook and made in his statement.

However, in light of the officer's lack of experience in court and his relatively short period of police service, he was merely reminded by his commanding officer of the importance of giving evidence in court in future. The acquittal review also recommended that the officer that took the complainant's statement and his supervising officer (Sergeant B) should be advised of the need to caution an arrested person when they sought to clarify what he or she initially said under caution. However, as this issue had no direct impact on the complainant's allegations, CAPO registered it as an "Outwith" matter against this officer and Sergeant B. No action would be taken against them by CAPO as they had already been advised by their commanding officer.

在審核這個案後，監警會有以下觀察：

- (i) 對拘捕投訴人的警員「疏忽職守」的指控，投訴警察課的裁決是建基於假設警員當時在筆記上記錄的案情是真實和正確的，只是他在法庭上的表現欠佳。但事實上他在庭上的口供是在宣誓下所作出的，而他的筆記卻並非誓章，所以作出以上假設並不妥當。值得注意的是在法庭上他供稱即使他看著他的證人陳述書（內容應與他的筆記一致），也不會有助他恢復當時的記憶。故此不應斷定警員拒絕重覆其證人陳述書和筆記內容只因表現欠佳，而有可能是因為他不想在已宣誓的情況下複述不正確的記錄。投訴警察課被要求重新考慮這指控的「並無過錯」分類。
- (ii) 原被列為「旁支事項」，即錄取口供警員和B警長的疏忽，其實是與投訴人的指控有密切關係，並可能影響此個案的結論。雖然不能確定投訴人是否曾在錄口供時向警員要求作辯護解釋，該警員和B警長未有尋求進一步澄清，足以影響是否有充分證據起訴投訴人。因此投訴警察課應把這項不當行為由「旁支事項」改列為「未經舉報但證明屬實」的「疏忽職守」。
- (iii) 安排投訴人兒子回家的幾名警員行為也有不當。拘捕投訴人的警員和被指「不禮貌」的警員均認為該男孩年紀尚輕，在事發現場沒有人可以照顧他，因此在拘捕投訴人時一併帶他回警署。然而，錄口供的警員卻讓該男孩晚上10時在沒有警員陪同下從警署乘巴士回家。如果認為以男孩的年齡可以獨自乘巴士回家，起初就不應該帶到警署。似乎拘捕的警員未有考慮或與投訴人商討是否讓男孩回家；他們只假定以他小小年紀應與母親一起到警署。因此監警會要求投訴警察課調查有關的幾名警員做法有否不當。

After examining the findings in this investigation and the case materials, IPCC had the following observations:

- (i) With regard to the allegation of “Neglect of Duty” against the arresting officer, CAPO’s analysis proceeded on the assumption that what the officer had recorded in his notebook was the true and correct version of events, and that the problem lay only in his poor performance when giving evidence in court. However, given that his testimony in court was made under oath while his notebook entry was not, it was not safe to proceed on this assumption. It was noteworthy that the officer said in court that even if he were to be shown his witness statement (presumably it contained the same facts as his notebook entry), it would not help refresh his memory. As such, one could not rule out the possibility that the officer’s refusal to repeat what he said in his witness statement and notebook was not because of his poor performance, but because the facts stated therein were not true and he did not wish to repeat them under oath. CAPO was thus requested to revisit the “No Fault” classification in this instance.
- (ii) The negligence pertaining to the “Outwith” matter registered against the officer who took the complainant’s statement and Sergeant B was closely related to the complainant’s allegation against this officer, and had an impact on the conclusion in this case. Although it could not be ascertained whether the complainant had asked the officer to allow her to offer an explanation in her defence when her statement was taken, the failure of the officer and Sergeant B to seek further clarification would be a factor in assessing the sufficiency of evidence of the complainant’s commission of the offence. As such, CAPO should handle this impropriety by way of a “Substantiated Other Than Reported” count of “Neglect of Duty” rather than as an “Outwith” matter.
- (iii) The police officers concerned should be faulted concerning the handling of the complainant’s son. Both the arresting officer and the officer accused of “Impoliteness” said that as the boy was young and there was no other person to look after him at the scene, they brought him to the police station with his mother after arresting her. However, at the police station, the officer who took the complainant’s statement found it appropriate to allow her son to return home by bus unaccompanied by an officer, although it was after 22:00 hours. If the boy was considered old enough to be able to return home alone by bus, he should not have been taken to the police station in the first place. It seemed that the arresting officers did not consider or discuss with the complainant the option of allowing her son to return home; they simply proceeded on the assumption that because of his young age he should be taken to the police station together with his mother. CAPO was requested to examine if any impropriety was found on the part of the officers involved.

經過兩輪質詢，投訴警察課作出以下回應：

- (i) 投訴警察課認同監警會對拘捕投訴人的警員「疏忽職守」的觀察，並改列為「無法證實」。
- (ii) 投訴警察課亦同意監警會意見，把原列為「旁支事項」的疏忽指控改為「未經舉報但證明屬實」的「疏忽職守」。為此對錄取口供的警員和B警長一同新增一項指控。
- (iii) 有關投訴人兒子的安排，投訴警察課維持原來的判斷，即有關警員決定把男孩從案發現場帶回警署是恰當的處理方法。但投訴警察課發現錄口供的警員在讓男孩獨自乘巴士回家之前，未有諮詢當值警官，亦沒有安排警員陪同男孩回家或衡量投訴人的女兒是否有能力在家照顧男孩，故此該警員被指控多一項「未經舉報但證明屬實」的「疏忽職守」。由於投訴警察課認為有關警員的做法是出於善意而且沒有不良意圖，加上男孩最終安全回家，因此建議提示該警員將來須遵從警方有關處理被拘留人士子女的守則和指引。這提示將不會記錄在部門記錄文件。

監警會通過這宗個案的調查結果。

After two rounds of query, CAPO responded as follows:

- (i) CAPO subscribed to IPCC's observation on the "Neglect of Duty" allegation against the arresting officer, and reclassified it as "Unsubstantiated".
- (ii) CAPO also concurred with the Council's view that the negligence pertaining to the "Outwith" matter should be disposed of by way of a "Substantiated Other Than Reported" count of "Neglect of Duty". To this end, a fresh allegation was registered against the officer who took the complainant's statement and Sergeant B.
- (iii) Regarding the police officer handling of the complainant's son, CAPO maintained that the decision to bring the boy from the crime scene to the police station was appropriate. However, CAPO found that the officer had failed to consult the Duty Officer before sending the boy home alone by bus. He also failed to arrange a police escort for the boy or to ascertain the capability of the complainant's daughter to look after the boy at home. An additional "Substantiated Other Than Reported" count of "Neglect of Duty" was therefore registered against the officer who sent the boy home alone. As CAPO opined that the officer had acted in good faith with no ill intent and the boy had eventually returned home safely, the officer would be advised without a Divisional Record File entry to follow the relevant provisions in police orders and guidelines in handling children of detained persons in future.

IPCC endorsed the findings of the investigation into this case.