

監警會 通訊

IPCC NEWSLETTER



觀察員確保投訴調查工作公正持平

Observers Ensuring Impartiality in Police Complaints Investigations



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(左起)觀察員張焯堯先生、馬盧金華女士、林志傑醫生、宣傳及意見調查委員會主席鄭承隆先生和梁秀志校長，分享擔任觀察員的感受。

(From left) Observers Mr Charles Cheung Cheuk-yiu, Mrs Virginia Ma Lo Kam-wah, Dr Lawrence Lam Chi-kit, Mr Edwin Cheng Sing-lung (Chairman of the Publicity and Survey Committee) and Principal Leung Sau-chi, share their experience of being IPCC Observers

觀察員確保投訴調查工作公正持平

Observers Ensuring Impartiality in Police Complaints Investigations

監警會的主要職能是觀察、監察和覆檢警務處處長就須匯報投訴的處理和調查工作，觀察警務處處長就須匯報投訴的處理和調查工作則由觀察員負責。根據《獨立監察警方處理投訴委員會條例》(監警會條例)，觀察員可以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。《監警會通訊》特意訪問了宣傳及意見調查委員會主席鄭承隆先生及四位資深觀察員分享他們出任觀察員的經驗。

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方式。在這計劃下，由

The main functions of the IPCC are to observe, monitor and review the Commissioner of Police's handling and investigation of Reportable Complaints against the Police. Observing the Commissioner of Police's handling and investigation of Reportable Complaints is the responsibility of the Observers. According to the Independent Police Complaints Council Ordinance (IPCCO), Observers may observe the collection of evidence and any interviews that the Police arrange with complainants, complainees, or witnesses in the course of their investigations into complaints. The *IPCC Newsletter* interviewed Mr Edwin Cheng Shing-lung (Chairman of the Publicity and Survey Committee) and four other senior Observers to share their experiences.

The Observers Scheme was introduced in 1996 to strengthen the IPCC's monitoring function and assist the IPCC in observing CAPO's handling and investigation of Reportable Complaints. Under this Scheme, Observers appointed by the Secretary for Security may attend interviews and observe the collection of evidence related to

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(左起) 觀察員林志傑醫生和馬盧金華女士
(From left) Observers Dr Lawrence Lam Chi-kit and Mrs Virginia Ma Lo Kam-wah



宣傳及意見調查委員會主席鄭承隆先生希望多與觀察員交流
Mr Edwin Cheng Shing-lung (Chairman of the Publicity and Survey Committee) hopes to have active exchanges among Observers

保安局局長委任的觀察員，可出席投訴警察課就調查須匯報投訴而進行的會面和證據收集工作。曾於2007年至2012年擔任委員、現為觀察員的林志傑醫生說：「以往在警監會年代，會面人士若不希望觀察員在場，我們便要避席。」但自監警會在2009年成為法定機構後，觀察員有法定權力出席觀察投訴調查工作，委員亦可進行觀察。

同樣由警監會時代開始出任觀察員的梁秀志校長同意，並分享擔任觀察員13年來的點滴，包括曾試過在凌晨時份觀察證據收集，也曾出席同一個案的所有觀察，完成觀察後遞交的報告會由秘書處再作跟進，以彰顯觀察員在調查過程中的重要性。梁校長強調觀察員職責是觀察，過程中不可以加入個人意見。與陪審團不同，觀察員不需要下判斷。基於公平公正的原則，觀察員在觀察會面及證據收集行動期間，不可作出干預或任何評價。

對於警方調查投訴工作的表現，幾位觀察員均欣賞負責調查投訴的警員工作認真，認為他們大多數以解決問題為大前題，而觀察員馬盧金華女士更表示，警方會盡量安排翻譯人員，照顧少數族裔的語言需要，務求令整個會面過程更為暢順，惟翻譯人員的數目較少，認為投訴警察課可在這方面加以改善。另外，觀察員認為以錄影形式紀錄會面過程，較傳統的筆錄更客觀詳盡，又可以反映投訴人或被告人的語氣和態度，有效提高調查的客觀性和中立性。

CAPO's investigation of Reportable Complaints. Dr Lawrence Lam Chi-kit, who served as an IPCC Member from 2007 to 2012 and is currently an appointed Observer, stated, "In the old days, before the IPCC had become a statutory body, if the interviewer or interviewees did not wish to have Observers present, we had to withdraw from the interview." But since the IPCC became a statutory body in 2009, Observers have had the statutory right to attend and observe investigations into police complaints. Likewise, IPCC Members can also conduct such observations.

Principal Leung Sau-chi has also been serving as an Observer since the pre-statutory body days of the IPCC. He shared some of his experiences during his thirteen years as an Observer, including midnight observations of the collection of evidence and his attendance at every single observation in one particular case. After an observation he would submit a report to the IPCC, which would be followed up by the Secretariat. This highlights the importance of an Observer in the investigation process. Principal Leung emphasised that the duty of an Observer is to observe on-site, without inserting any personal opinions. The Observer's role differs from that of a jury member in that he or she does not need to give a verdict. An Observer must maintain the principles of fairness and impartiality during the observation of an interview or the collection of evidence, without interference or comment.

Several Observers admired the work ethic of the police officers in charge of investigating complaints, noting that the police officers placed top priority on problem-solving. Observer Mrs Virginia Ma Lo Kam-wah noted that the Police did their best to arrange for interpreters to attend to the needs of ethnic minority groups in order to facilitate a smooth interview process, but that the number of interpreters was limited; she said this was an area in which CAPO could improve. Observers also expressed the view that video-recorded interviews are not only much more objective and detailed compared to traditional written records, but they also show the complainant or complainees tone and attitude, which in turn improves the objectivity and neutrality of investigations.

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(左起) 觀察員梁秀志校長和張焯堯先生
(From left) Observers Principal Leung Sau-chi and Mr Charles Cheung Cheuk-yiu

另一方面，觀察員認為加強彼此的交流有助他們進行觀察，如監警會去年6月及7月舉辦的三次研討會，為觀察員提供平台互相分享經驗和心得。有見及此，會方亦將於2015年1月23日籌辦大型的觀察員研討會，增加委員與觀察員之間的連繫。另外，會方亦著手製作教學短片，供觀察員參考，特別針對新獲任命的觀察員，為他們介紹監警會及觀察員計劃、電子平台的功能、現場觀察的模擬片段等。

此外，會方為提升效率，亦於年前推出觀察員電子平台，觀察員張焯堯先生表示，加密的平台令預約觀察更為方便，可以讓觀察員事先預約投訴會面及證據收集的環節，直接提升觀察員的參與率，秘書處亦可以更有效監察及分配觀察員的出席情況。

最後，鄭承隆先生寄望觀察員繼續積極參與出席觀察。他指出佔領運動發生逾月，投訴警察課已展開由佔領運動衍生的投訴調查工作。截至11月24日為止，監警會亦已收到投訴警察課28次的會面及證據搜集的通知。由於佔領運動的投訴引起社會高度關注，會方希望所有投訴警察課的調查會面及證據收集工作均有觀察員出席。鄭承隆先生亦以身作則，觀察了超過一半相關的調查工作，以回應市民大眾對監警會的期望。

Observers also stated that exchanges among themselves are helpful in carrying out their observations. For example, the IPCC held three seminars in June and July last year to provide a platform for Observers to share their experiences and knowledge. Given the success of these events, the IPCC is planning to hold a large-scale Observers symposium on 23 January 2015, to strengthen connections between IPCC Members and Observers. The IPCC will also be producing short educational videos which Observers can use as a reference. Newly appointed Observers will be provided with an introduction to the IPCC and the Observers Scheme, an introduction to the functions of the e-portal, and simulation videos of on-site observations.

Additionally, in order to improve its effectiveness, the IPCC will also rolled out an Observers' e-portal. Observer Mr Charles Cheung Cheuk-yiu stated that an encrypted platform for making observation appointments is much more convenient because an Observer can choose a particular complaint case interview beforehand, which will increase the Observers' attendance rate. The IPCC Secretariat can also monitor and allocate the attendance of Observers more effectively.

Lastly, Mr Edwin Cheng said he hopes that Observers will continue to actively participate in and attend observations. He pointed out that in the past months, since the commencement of the Occupy Movement, CAPO has already begun investigations into complaints arising from this movement. As of 24 November 2014, the IPCC has also received 28 notices of interviews and collection of evidence from CAPO. Since the complaints arising from the Occupy Movement have attracted a lot of public concern, the IPCC hopes that all investigation interviews and collection of evidence by CAPO will be attended by IPCC Observers. Leading by example, Mr Edwin Cheng has observed over half of the investigation work, in response to the public's expectations of the IPCC.

觀察員的委任

(監警會條例第33條)

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；
- 及曾屬警隊成員的人士。

Appointment of Observers

(Section 33 of IPCCO)

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

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