

第一章 — 第七章

工作與成果

Chapter 1 – Chapter 7

Work and Achievements



1.1 獨立監察警方處理投訴委員會（監警會）是根據《獨立監察警方處理投訴委員會條例》（《監警會條例》）（第604章）成立的獨立機構，職能是觀察、監察和覆檢警務處處長（處長）就須匯報投訴的處理和調查工作。

歷史

- 1.2 監警會源自行政立法兩局非官守議員警方投訴事宜常務小組。1986年，當時的總督把常務小組改組為一個獨立的投訴警方事宜監察委員會。1994年12月，投訴警方事宜監察委員會改稱為投訴警方獨立監察委員會（警監會）。
- 1.3 2007年7月，當局向立法會提交《投訴警方獨立監察委員會條例草案》。《條例草案》旨在把當時的警監會轉為法定機構，為其運作提供法律依據，並改稱為「獨立監察警方處理投訴委員會」。立法會於2008年7月通過《監警會條例》。保安局局長其後指定2009年6月1日為《監警會條例》的生效日期。
- 1.4 監警會於《監警會條例》生效同日（即2009年6月1日）成為法定機構。

1.1 The Independent Police Complaints Council (IPCC) is an independent body established under the Independent Police Complaints Council Ordinance (IPCCO) (Cap. 604) to observe, monitor and review the handling and investigation of reportable complaints (RCs) against the Police by the Commissioner of Police (CP).

History

- 1.2 IPCC has its origin in the Police Group of the Office of the Unofficial Members of the Executive and Legislative Councils which evolved into the Police Complaints Committee (PCC), an independent body commissioned by the then Governor in 1986. The PCC was renamed the Independent Police Complaints Council in December 1994.
- 1.3 In July 2007, the Administration introduced the IPCC Bill into the Legislative Council (LegCo). The Bill sought to incorporate the then existing IPCC and provide a statutory basis for IPCC to operate. The IPCCO was enacted in July 2008. The Secretary for Security subsequently appointed 1 June 2009 as the day when IPCCO would come into operation.
- 1.4 IPCC has become a statutory body since the commencement of IPCCO on 1 June 2009.

職能和權力

- 1.5 在《監警會條例》下，監警會的主要職能如下：
- (i) 觀察、監察和覆檢處長處理和調查須匯報投訴的工作；
 - (ii) 監察處長已經或將會向與須匯報投訴有關的警務人員採取的行動；
 - (iii) 找出警隊工作常規或程序中引致或可能引致須匯報投訴的缺失或不足之處；
 - (iv) 向處長和/或行政長官提供與須匯報投訴有關的意見和/或建議；及
 - (v) 加強公眾對監警會的角色認識。
- 1.6 在《監警會條例》下，監警會可要求處長調查或重新調查須匯報投訴；提供關乎須匯報投訴的資料或材料；就須匯報投訴的處理或調查以及向相關的警務人員採取或擬採取的行動作出解釋；提供解釋和資料或材料以支持不將某投訴歸類為受監警會監察的須匯報投訴。

成員組合

- 1.7 監警會由一名主席、三名副主席和14名委員組成。他們全部由行政長官委任，來自社會不同界別，包括法律、醫療、牙科、衛生、教育、社福、商界和立法會議員等。監警會借助委員多方面的知識，獨立、公正、透徹地監察投訴警察課的調查工作。

Functions and Power

- 1.5 The main functions of IPCC as provided for under IPCCO are:
- (i) to observe, monitor and review the handling and investigation of RCs by CP;
 - (ii) to monitor actions taken or to be taken in respect of any police officer by CP in connection with RCs;
 - (iii) to identify any fault or deficiency in police practices or procedures that has led to or might lead to RCs;
 - (iv) to advise CP and/or the Chief Executive (CE) of its opinion and/or recommendation in connection with RCs; and
 - (v) to promote public awareness of the role of the Council.
- 1.6 Under IPCCO, IPCC may require CP to investigate or re-investigate RCs, provide information or material relating to RCs, provide explanations on the handling or investigation of RCs and the actions taken or to be taken against the police officers involved, and provide explanations and information or material in support of not categorising a complaint as an RC which would otherwise be under IPCC's monitoring.

Composition

- 1.7 IPCC comprises a Chairman, three Vice-Chairmen and 14 Members, all appointed by CE. They are drawn from a wide spectrum of society including legal, medical, dental, health, education, social welfare, business sectors, and LegCo members. This composition enables IPCC to draw upon the diverse expertise of its Members to monitor the Complaints Against Police Office (CAPO)'s investigation of police complaints in an independent, impartial, and thorough manner.

1.8 監警會在本報告期內的委員名單如下：

1.8 The membership of IPCC during this reporting period was as follows:

主席 Chairman

翟紹唐 資深大律師
Mr JAT Sew-Tong, SC

由2008年6月起
since June 2008

副主席 Vice-Chairmen

李國麟議員，SBS，JP
Dr Hon Joseph LEE Kok-long, SBS, JP

林大輝議員，BBS，JP
Dr Hon LAM Tai-fai, BBS, JP

石禮謙議員，SBS，JP
Hon Abraham SHEK Lai-him, SBS, JP

由2007年起
since 2007

由2009年起
since 2009

由2009年起
since 2009

委員 Members

楊耀忠先生，BBS，JP Mr YEUNG Yiu-chung, BBS, JP	由2005年起：委員 since 2005: Member	2001 – 2004年：副主席 2001 – 2004: Vice-Chairman
徐福樂醫生 Dr Michael TSUI Fuk-sun	2004 – 2009年 2004 – 2009	
謝德富醫生，BBS，JP Dr TSE Tak-fu, BBS, JP	由2005年起 since 2005	
王沛詩女士，JP Ms Priscilla WONG Pui-sze, JP	由2005年起 since 2005	
阮陳淑怡博士 Dr Helena YUEN CHAN Suk-yee	由2006年起 since 2006	
林志傑醫生，MH Dr Lawrence LAM Chi-kit, MH	由2007年起 since 2007	
杜國鑾先生，BBS，JP Mr Clement TAO Kwok-lau, BBS, JP	2008 – 2009年 2008 – 2009	
張妙嫦女士 Ms Emily CHEUNG Mui-seung	由2008年起 since 2008	
陳嘉敏女士，JP Ms Carmen CHAN Ka-mun, JP	由2009年起 since 2009	
張達明先生 Mr Eric CHEUNG Tat-ming	由2009年起 since 2009	
張仁良教授，BBS，JP Prof Stephen CHEUNG Yan-leung, BBS, JP	由2009年起 since 2009	
方敏生女士，BBS，JP Ms Christine FANG Meng-sang, BBS, JP	由2009年起 since 2009	
吳克儉先生，JP Mr Eddie NG Hak-kim, JP	由2009年起 since 2009	

委員 Members

彭耀佳先生，SBS，JP Mr PANG Yiu-kai, SBS, JP	2009 – 2010年2月 2009 – February 2010
陳培光醫生 Dr CHAN Pui-kwong	由2010年起 since 2010
鄭經翰先生，JP Mr Albert Jinghan CHENG, JP	由2010年起 since 2010

監察機制

1.9 香港的投訴警察制度是一個兩層的架構。所有投訴警察的個案，不論來源，均交由投訴警察課調查。該課完成調查後，會將須匯報投訴的調查報告，連同相關的檔案、文件和材料，提交監警會審核。

Monitoring Mechanism

1.9 Hong Kong adopts a two-tier police complaints system. All complaints against the Police, irrespective of origin, are referred to CAPO for investigation. After CAPO has completed the investigation of an RC, it will submit the investigation report, together with relevant files, documents and materials, to IPCC for scrutiny.

須匯報投訴

1.10 所有須匯報投訴均由監警會審核。「須匯報投訴」是指市民就當值的警務人員或表明是警隊成員的休班人員的行為所作出的投訴。這些投訴必須由受直接影響的人士（或其代表）真誠地作出，並非瑣屑無聊或無理取鬧的投訴。

Reportable Complaints

1.10 All RCs come under IPCC's scrutiny. RCs refer to complaints lodged by members of the public, not vexatious or frivolous, and made in good faith, that relate to the conduct of police officers while on duty or who identify themselves as police officers while off duty. The complaint should be made by or on behalf of a person directly affected by the police misconduct.

調查報告

1.11 須匯報投訴的調查報告必須載有：

- 有關調查的撮要；
- 就有關投訴所作的對事實的裁斷，及支持該裁斷的證據；
- 有關投訴的分類，及作該分類的理由；及
- 述明處長就有關投訴已經或將會採取的行動。

Investigation Reports

1.11 An investigation report on an RC must contain:

- a summary of the investigation;
- a finding of facts in relation to the complaint and the evidence in support of the finding;
- the classification of the complaint, and the reasons for the classification; and
- an account of the action taken or to be taken by CP in connection with the complaint.

- 1.12 如某須匯報投訴的調查未能在接獲投訴後六個月內完成，處長必須在該限期屆滿後盡快向監警會呈交中期調查報告，交代調查的進度撮要和解釋未能於六個月內完成調查的理由。其後，處長必須每六個月向監警會呈交進一步的中期調查報告，直至調查完成為止。監警會可就中期調查報告向處長提供意見。
- 1.12 If the investigation of an RC is not completed within six months from the date of receipt of the complaint, CP must, as soon as practicable after the expiry date, submit to IPCC an interim investigation report which should contain a summary of the investigation progress and explain the reasons for not being able to complete the investigation in six months. CP must submit further interim investigation reports in every six months until the investigation is completed. IPCC may advise CP of its opinion on interim investigation reports.

審核調查報告

- 1.13 監警會委員分為三個小組，每組由五至六名委員組成，分批審核調查報告。每份須匯報投訴的調查報告會由一個小組審核。隨後，所有報告會交由主席進一步審核。
- 1.13 IPCC Members have formed three sub-groups, each comprising five to six Members, to vet the investigation reports. Each investigation report of an RC will be scrutinised by a sub-group. Thereafter, the reports will be further scrutinised by the Chairman.
- 1.14 在審核期間，如委員發現有疑點或不信納調查結果，監警會會要求投訴警察課澄清和/或提供更多資料。如監警會認為調查有不足之處，亦可要求該課重新調查投訴。
- 1.14 In the course of examination, if any areas of doubt are found or if Members are not convinced of the investigation findings, IPCC may require CAPO to clarify and/or provide more information. IPCC can also request CAPO to re-investigate a complaint if it finds the investigation inadequate.
- 1.15 監警會會安排在會議上討論一些特別具爭議性、公眾關注或涉及基本原則的投訴個案，促進委員之間以及監警會與投訴警察課之間的意見交流。監警會在完全信納投訴個案處理得當後，才會通過調查結果，個案方可終結。監警會審核調查報告的流程圖載於附錄I。
- 1.15 Cases which are particularly controversial, of public concern or involve matters of fundamental principles would be discussed at meetings to facilitate exchange of views among Members and between IPCC and CAPO. Only when IPCC is fully satisfied that a complaint has been properly dealt with will it endorse the investigation results and the case be concluded. A flowchart showing the process of scrutiny of investigation reports by IPCC is at Appendix I.
- 1.16 除了審核調查報告，監警會亦希望能協助預防投訴，因此會找出警隊常規和程序中的缺失或不足之處，向處長和/或行政長官提出建議。
- 1.16 Apart from vetting investigation reports, IPCC would also identify faults or deficiencies in police practices and procedures with a view to preventing complaints against the Police. IPCC will make recommendations to CP and/or CE as and when appropriate.

Examination of Investigation Reports

- 1.17 須匯報投訴屬於監警會的監察範圍。以下的投訴則不在監警會的監察權限之內：
- (i) 投訴人以自己作為警務人員的身分作出的投訴；
 - (ii) 純粹關乎發出傳票或施加定額罰款通知書是否有效而引致的投訴；或
 - (iii) 屬於其他法定機構調查範圍內的投訴。

須知會投訴

- 1.18 既不屬須匯報投訴，亦非上文第1.17段所述的投訴，一律歸類為「須知會投訴」，例如：就沒有表明是警隊成員的休班人員的行為所作出的投訴；由匿名人士作出的投訴；或由並非受直接影響的人士作出的投訴。
- 1.19 監警會不會審核須知會投訴的調查報告，但投訴警察課必須定期向監警會呈交須知會投訴的列表，內容包括投訴的扼要描述和將該等投訴歸類為須知會投訴的理由，讓監警會確保所有該列為須匯報投訴的個案均被恰當歸類，納入監警會的監察和覆檢範圍內。

監察嚴重投訴

- 1.20 監警會之下成立的嚴重投訴個案委員會密切監察一些嚴重的投訴個案。委員會監察的「嚴重投訴」包括：
- (i) 涉及死亡或嚴重受傷的可疑個案；
 - (ii) 公眾關注而委員會認為性質嚴重的個案；及
 - (iii) 未能結案而監警會或委員會認為性質嚴重的個案。

- 1.17 Unlike RCs, the following complaints do not come under the purview of IPCC:

- (i) complaints lodged by a person in his official capacity as a member of the Police Force;
- (ii) complaints arisen from the issue of a summons or imposition of a fixed penalty which solely relates to the validity of the issue; or
- (iii) complaints that fall under the scope of investigation of other statutory bodies.

Notifiable Complaints

- 1.18 Other than RCs and the complaints mentioned in paragraph 1.17 above, all complaints are notifiable complaints (NCs). They include complaints against the conduct of off-duty police officers who did not identify themselves as such, anonymous complaints, or complaints lodged by persons who are not directly affected by the police misconduct.
- 1.19 IPCC does not vet the investigation reports of NCs but CAPO is required to regularly submit a list of such complaints to IPCC. The list should include brief description of the complaints and reasons for categorising them as NCs. This is to ensure that all complaints which should properly be categorised as RCs are so categorised and that the investigation will consequentially be subject to IPCC's monitoring and review.

Monitoring of Serious Complaints

- 1.20 A Serious Complaints Committee (SCC) is established under IPCC to closely monitor certain serious complaints. "Serious complaints" within the scope of SCC's monitoring include:
- (i) suspicious cases involving death or serious injuries;
 - (ii) cases of public interest which are considered to be serious by SCC; and
 - (iii) unresolved cases which are considered to be serious by IPCC or SCC.

1.21 當個案被納入嚴重投訴個案委員會監察之列，投訴警察課需每月向監警會提交進度報告，直至調查完結和提交最終的調查報告為止。這樣，委員會便可密切監察個案的進度，確保個案得到適當和適時的處理。

觀察員計劃

1.22 觀察員計劃於1996年推出，旨在加強監警會的監察職能。在該計劃下，由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。監警會成員同樣亦可進行觀察。

1.23 投訴警察課會盡量在會面或證據收集進行前不少於48小時通知監警會。監警會秘書處會隨即知會觀察員。觀察員可觀察任何與調查投訴有關而與投訴人、被投訴人或證人進行的會面，或任何證據收集工作。觀察可在預先安排或突擊的情況下進行。

1.24 觀察員的角色是觀察和匯報，他們不會干預會面或證據收集的進行。觀察員在觀察完畢後，須向監警會報告會面或證據收集是否公平公正和不偏不倚地進行，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，監警會會與投訴警察課跟進。

1.25 任何將會就須匯報投訴與投訴警察課會面的人士，均可要求有觀察員出席有關會面。當監警會接到要求後，會盡量作出安排。

1.26 截至2010年3月31日，共有91名監警會觀察員。

1.21 Once a case is put under SCC's monitoring, CAPO will submit monthly progress report to IPCC until the investigation is completed and final investigation report available. SCC can thus keep close monitoring of the progress of such cases to ensure that appropriate and timely action is taken.

Observers Scheme

1.22 The Observers Scheme was introduced in 1996 to strengthen IPCC's monitoring function. Under the Scheme, Observers, appointed by the Secretary for Security, may attend interviews and observe the collection of evidence in connection with CAPO's investigation of RCs. IPCC Members can likewise conduct such observations.

1.23 In so far as practicable, CAPO will notify IPCC at least 48 hours in advance of any impending interview or collection of evidence. The IPCC Secretariat will then inform Observers of the appointments. Observers can observe any interviews with complainants, complainees, or witnesses, or any collection of evidence conducted in the course of complaints investigation. The observations can be carried out on a pre-arranged basis or a surprise basis.

1.24 The role of an Observer is primarily to observe and report; he will not interfere with the conduct of interview or collection of evidence. After each observation, the Observer will submit a report to IPCC stating whether the interview or collection of evidence is conducted in a fair and impartial manner, and if any irregularities are detected. Should there be any irregularities reported, IPCC will follow up with CAPO.

1.25 Any person who is going to be interviewed by CAPO in connection with an RC can request for an Observer to be present during the interview. Upon receipt of such request, IPCC will endeavour to make the arrangements.

1.26 As at 31 March 2010, there were a total of 91 IPCC Observers.

監警會的會面

- 1.27 會見計劃於1994年推出。在該計劃下，監警會可為考慮投訴警察課調查報告，會見能夠或可能能夠向監警會提供資料或協助的人士。如監警會認為有需要直接會見某些人士，便會邀請他們出席會面。這些人士可能是投訴人、被投訴人或其他獨立人士。
- 1.28 會面由不少於兩位監警會委員組成的小組主持，目的主要是向有關人士澄清事宜。

監警會/投訴警察課聯席會議

- 1.29 監警會/投訴警察課聯席會議每季舉行一次。為提高透明度和公眾對我們工作的認識，部分會議公開讓市民旁聽。

IPCC Interviews

- 1.27 The Interview Scheme was introduced in 1994. Under the Scheme, IPCC may interview persons who are or may be able to provide information or assistance to IPCC for the purpose of considering CAPO's investigation reports. If IPCC considers it necessary to meet with certain persons to hear from them direct, IPCC may invite these persons for interviews. Such persons may be complainants, complainees, or other independent persons.
- 1.28 Each interview is conducted by a panel of no less than two IPCC Members. The purpose of interviews is primarily to clarify matters with the concerned persons.

Joint IPCC/CAPO Meetings

- 1.29 Joint IPCC/CAPO meetings are held quarterly. To enhance transparency and public understanding of our work, part of the meetings are open to the public.

監警會/投訴警察課聯席會議
Joint IPCC/CAPO meeting

