

# 3

## 第三章 CHAPTER 3

# 處理投訴警察及 公眾關注議題

## Handling Complaints of Public Interest and Related Matters

# 副總理訪港而衍生的投訴個案

## Complaint Cases Arising from the Vice Premier's Visit

### 背景

### Background

國務院副總理在2011年8月16日至18日訪問香港，期間他曾到訪多個地點。為了保護副總理，警方在整個訪問期間採取了一連串措施，包括在副總理到訪的地點及其車隊所經路線實施了保安行動。惟警方在這次保安行動所採取的幅度和規模引起公眾的不滿和關注，結果警方的投訴警察課接獲22宗投訴個案，共涉及40項指控。當中有6宗個案的投訴人並非直接受警方行動的影響，故被歸類為須知會投訴，其餘的16宗個案則歸類為須匯報投訴。

自2012年9月開始，投訴警察課就以上16宗須匯報投訴個案，共進行了109次調查行動，包括會面和證據收集工作，監警會觀察員出席了其中的106次（97%）。

The Vice Premier (VP) of the State Council of the Central People's Government visited Hong Kong from 16 to 18 August 2011. During his stay, the VP attended a number of functions at different locations. To ensure his personal safety, the Police took certain security measures at the sites he would visit and along the routes his motorcade would travel. Afterward, widespread public concerns arose as to the magnitude and latitude of the security arrangements adopted by the Police. As a result of the visit, CAPO received 22 complaint cases comprising 40 allegations. In six of these cases the complainants were not directly affected by police operations; thus they were categorised as Notifiable Complaints, while the remaining 16 cases were categorised as Reportable Complaints.

Since September 2012, CAPO has taken 109 investigative actions, including interviews and evidence collection, related to the 16 Reportable Complaints. IPCC Observers were present during 106 (97%) of these actions.

### 副總理訪港期間進行了以下各項官方活動

### VP attended the following official functions during his stay

- 2011年8月16日下午3時左右，到訪何文田東華三院黃祖棠社會服務大樓；
  - 2011年8月16日下午4時左右，到訪何文田香港房屋委員會總部；
  - 2011年8月16日下午，到觀塘麗港城訪問一家庭；
  - 2011年8月17日晚上，出席香港特別行政區政府在君悅酒店主持的歡迎晚宴；
  - 2011年8月18日上午，出席香港大學的百週年紀念儀式；
  - 2011年8月18日下午，到訪添馬新政府大樓。 -
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- Visited the Tung Wah Group of Hospitals Wong Cho Tong Social Service Building in Ho Man Tin around 3pm on 16 August 2011;
  - Visited the Hong Kong Housing Authority Headquarters in Ho Man Tin around 4pm on 16 August 2011;
  - Visited a family at Laguna City in Kwun Tong in the late afternoon on 16 August 2011;
  - Attended a welcome dinner hosted by the Government of the Hong Kong Special Administrative Region at a hotel in the evening on 17 August 2011;
  - Attended the University of Hong Kong Centenary Ceremony in the morning on 18 August 2011; and
  - Visited the New Central Government Complex at Tamar in the afternoon on 18 August 2011.

## 發表中期報告 Release Interim Report



2012年5月3日，監警會發佈副總理訪港而衍生的投訴個案審查的中期報告，讓公眾了解投訴個案的處理進度及增加透明度。在中期報告中監警會交代該16宗須匯報投訴個案之中，有九宗個案已獲通過。

除了仔細及嚴謹地審閱每宗個案的調查報告外，監警會亦試圖找出引致這些投訴的原因，和警方的保安行動是否恰當及有否充足理據。在審議這些個案時，監警會循下列三方面提出質詢：

1. 監警會觀察到很多投訴人不滿的是警方的行動，而不是在現場前線警務人員處理當時的情況。因此被投訴人應該是負責警方行動的高級警務人員，而不是前線警員；
2. 監警會觀察到有些個案的投訴人沒有向投訴警察課錄取口供，但視乎投訴人所提供的資料詳情，以及投訴人是否願意和投訴警察課保持聯繫，投訴警察課仍應展開全面調查；

On 3 May 2012, the IPCC published an interim report on complaints related to the visit by the VP to ensure transparency and openness with regard to these investigations. The interim report stated that CAPO had received 16 Reportable Complaints; in nine cases the IPCC endorsed CAPO's findings.

In the course of its careful and conscientious review, the IPCC tried to find out the reasons for the complaints and considered whether the police security measures in question had been proper and justifiable. In reviewing the cases, the IPCC raised queries according to the following three directions:

1. The IPCC is of the view that in many cases the complainants were dissatisfied with the police actions in question rather than the way the police officer(s) at the scene handled the situation(s); hence these complaints should be directed against the senior police officer(s) responsible for the actions rather than the frontline police officer(s);
2. The IPCC is also of the view that in cases where the complainants did not provide statements to CAPO, full investigations should be conducted with regard to the information provided by the complainants, contingent upon their willingness to maintain contact with CAPO; and

3. 為找出引致這些投訴的原因，以及評估警方的保安行動是否恰當及有理據，監警會要求投訴警察課提供有關的行動指令及其他相關文件，讓監警會可以有詳盡和全面的資料，來評估警方保安行動背後的依據。

發表中期報告後，朱敏健秘書長和法律顧問陳敏儀女士於2012年6月5日，出席立法會保安事務委員會會議，回應該會議員對有關副總理訪港而衍生的投訴個案審查中期報告的問題。監警會繼續向投訴警察課提出質詢，並檢閱投訴警察課提供的相關文件，以解決尚未處理的投訴個案。

3. In order to identify the causes leading to these complaints, and to find out if police security operations were proper and justified, the IPCC has requested CAPO to provide all relevant operational orders and related documents, to allow the IPCC to thoroughly and comprehensively assess the rationale behind the police actions in question.

After the release of the interim report, Mr Ricky Chu (Secretary-General), together with Ms Cherry Chan (Legal Adviser), attended the Legislative Council Security Panel Meeting on 5 June 2012 to respond to the Legislative Council members' questions concerning the IPCC's Interim Report on complaint cases arising from the visit by the VP. The IPCC continued to present queries to CAPO and to review related documents in order to resolve outstanding complaint cases.

## 發表最終報告

### Release Final Report



於2012年12月19日監警會發表就副總理訪港而衍生的投訴個案審查最終報告。報告顯示七宗尚未處理的投訴個案中，有五宗已獲得通過，另外有一宗以「有案尚在審理中」的方式處理。而最後一宗個案監警會只是通過了六項指控中的四項，其餘兩項關於警方決定設立指定採訪區的地點，監警會和投訴警察課則未能就指控的分類達成共識。因此監警會在最終報告闡述了雙方的意見，並根據《監警會條例》第19條(3)將這宗個案呈交予行政長官考慮。

On 19 December 2012, the IPCC released its final report on complaint cases against the Police arising from the visit by the VP. The final report revealed that five of the seven outstanding complaint cases had been endorsed, while one remained "Sub-Judice". The final case had been partially settled, with four of six allegations endorsed by the IPCC. The remaining two allegations, which focused on the Police's decision in setting up a designated press area, remained unresolved, owing to different views between CAPO and the IPCC on the classification of the allegations. This difference was set out in the final report for the Chief Executive's consideration pursuant to S19(3) of the IPCCO.



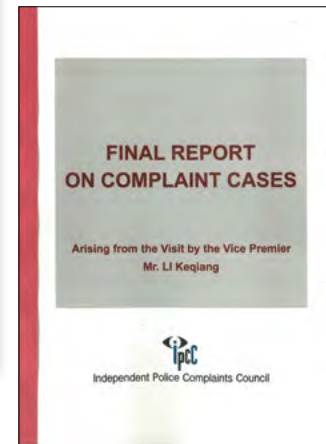


由於警方採取保安措施的幅度引起廣泛不滿，監警會除了履行《監警會條例》第8條(1)(a)賦予的職能，監察和審核投訴警察課的投訴調查外；亦履行《監警會條例》第8條(1)(c)的職能，檢討警方就副總理訪港所安排的保安措施，找出警隊工作常規及程序不足之處，從而向行政長官和/或警務處處長提出建議，以改善警方將來部署及執行類似的行動。

雖然這次保安行動的幅度所引起的廣泛關注，為警隊的聲譽蒙上一片陰霾；但這次事件為警方提供一個寶貴的機會，讓警方汲取經驗及作出檢討。監警會衷心希望最終報告內的觀察和建議，有助防止將來引起類似的投訴，遂建議警方採取以下的改善措施：

1. 行動部應擔任總指揮單位的角色，統籌一切溝通的工作；
2. 發給前線警務人員的所有行動指令及其他相關文件均必須清晰地臚列出行動的使命及目的，以確保他們在執行任務時不會有任何誤解或混淆；
3. 在可行的情況下，加強與傳媒及市民的溝通，以取得他們的配合和諒解；
4. 定期審慎地檢討相關的保安措施，確保該等措施既能達致保安行動的要求，而又無礙市民應有的權利。

監警會朱敏健秘書長和法律顧問陳敏儀女士於2013年2月5日，出席立法會保安事務委員會會議，回應該會議員對有關副總理訪港而衍生的投訴個案審查最終報告的問題。



Due to widespread public discontent and concern over the magnitude of the security arrangements adopted by the Police, on top of discharging its statutory responsibilities under S8(1)(a) of the IPCCO in monitoring and scrutinising the relevant complaint investigations conducted by CAPO, the IPCC conducted an examination under S8(1)(c) of the IPCCO of the security measures implemented to protect the VP, with a view to identifying inadequacies in police practices and procedures. As a result, the IPCC made a number of recommendations to the Commissioner of Police and/or the Chief Executive to improve the planning and execution of similar operations in the future.

Public concern over the magnitude of security operations has unfortunately created an overcast on the reputation of the Police, but it has provided the Police with a valuable opportunity to learn from this experience. The IPCC sincerely hopes that the observations and recommendations in its final report will help prevent similar complaints in the future. It therefore recommends that the Police seek improvement in the following areas:

1. Improve and better coordinate communications, with the Operations Wing as the central command unit;
2. Provide clear guidelines in the Operational Orders or other instructions to frontline officers to ensure that operations are conducted without misunderstanding or confusion as to the mission and objective to be achieved;
3. Enhance communication with members of the public and the press insofar as practicable for the purpose of enlisting their cooperation and understanding; and
4. Review the relevant security measures vigilantly and at regular intervals to ensure that the right balance is maintained between security requirements and citizens' rights.

On 5 February 2013, Mr Ricky Chu (Secretary-General), together with Ms Cherry Chan (Legal Adviser), attended the Legislative Council Security Panel Meeting to respond to the Legislative Council members' questions concerning the IPCC's final report on complaint cases arising from the visit by the VP.

## 16宗「須匯報投訴」總覽

## Overview of the 16 “Reportable Complaints”

編號 No.	個案名稱 Case Name	投訴性質 Nature of Complaint	指控 Allegation	最終分類 Final Classification
1	封閉通往香港會議展覽中心的行人天橋 Closure of footbridge to Hong Kong Convention and Exhibition Centre	封閉行人天橋 Closure of footbridge	(a)-(c) 疏忽職守 (a)-(c) Neglect of Duty (“NOD”)	投訴撤回 Withdrawn
2	封閉通往入境事務大樓的行人天橋 Closure of footbridge to Immigration Tower		疏忽職守 NOD	透過簡便方式解決 Informally Resolved
3	封閉通往中信大廈的行人天橋 Closure of footbridge to CITIC Tower		疏忽職守 NOD	無法追查 Not Pursuable
4	封閉通往香港藝術中心的行人天橋 Closure of footbridge to Hong Kong Arts Centre		疏忽職守 NOD	無法追查 Not Pursuable
5	驅散紅棉路的行人 Clearing pedestrians on Cotton Tree Drive	驅散行人 Clearance of pedestrians	粗魯無禮 Rudeness	透過簡便方式解決 Informally Resolved
6	驅散港灣道的行人 Clearing pedestrians on Harbour Road		粗魯無禮 Rudeness	無法追查 Not Pursuable
7	香港大學的保安安排 Security arrangements at the University of Hong Kong	香港大學的保安安排 Security arrangements at the University of Hong Kong	(a)-(c) 疏忽職守 (a)-(c) NOD	透過簡便方式解決 Informally Resolved
8	新政府大樓外的抗議行動 Protest outside Central Government Complex	行使警權及 指定公眾活動區的位置 Execution of Police powers and location of Designated Public Activity Area	(a),(b)及(e) 疏忽職守 (c)及(d) 行為不當 (a), (b) & (e) NOD (c) & (d) Misconduct	透過簡便方式解決 Informally Resolved
9	通往新政府大樓的行人天橋上的抗議行動(一) Protest on footbridge to Central Government Complex (I)		疏忽職守 NOD	透過簡便方式解決 Informally Resolved
10	通往新政府大樓的行人天橋上的抗議行動(二) Protest on footbridge to Central Government Complex (II)		濫用職權 Unnecessary Use of Authority (“UUOA”)	無法追查 Not Pursuable
11	會景閣外的抗議行動 Protest outside Convention Plaza		(a) 毆打 (b) 濫用職權 (a) Assault (b) UUOA	無法證實 並無過錯 Unsubstantiated No Fault
12	向副總理遞交請願信 Submission of petition letters to VP	疏忽職守 NOD	並無過錯 No Fault	

編號 No.	個案名稱 Case Name	投訴性質 Nature of Complaint	指控 Allegation	最終分類 Final Classification
13	一名男子在麗港城被移走事件 Removal of a male at Laguna City		毆打 Assault	無法追查 Not Pursuable
14	記者與警方在麗港城及黃祖棠社會服務大樓的接觸 Reporters' encounters with Police at Laguna City and Wong Cho Tong Building	行使警權 Execution of Police powers	(a),(g)及(h) 濫用職權 (b)及(i) 疏忽職守 (c) 沒有禮貌 (d) 及(j) 行為不當 (e) 行為不當 (f) 疏忽職守 (a), (g) & (h) UUOA (b) & (i) NOD (c) Impoliteness (d) & (j) Misconduct (e) Misconduct (f) NOD	獲證明屬實 獲證明屬實 獲證明屬實 獲證明屬實 並無過錯 並無過錯 Substantiated Substantiated Substantiated Substantiated No Fault No Fault
15	中環廣場外的抗議行動 Protest outside Central Plaza		(a) 疏忽職守 (b) 毆打 (a) NOD (b) Assault	有案尚在審理中 Sub-Judice (Pending Investigation)
16	指定採訪區的位置及記者個人物品的搜查 Designated Press Area locations and search of reporters' personal belongings	指定採訪區的位置 Location of Designated Press Area	(a) 疏忽職守 (b) 濫用職權 (c) 疏忽職守 (d) 及(f) 疏忽職守 (e) 行為不當 (a) NOD (b) UUOA (c) NOD (d) & (f) NOD (e) Misconduct	並無過錯 獲證明屬實 獲證明屬實 監警會沒有通過調查結果* 投訴撤回 No Fault Substantiated Substantiated Not endorsed by IPCC* Withdrawn

\* 投訴警察課建議分類為「並無過錯」；監警會建議分類為「無法證實」

\* "No Fault" proposed by CAPO; "Unsubstantiated" proposed by the IPCC



# 警方處理大型公眾活動

## Police Handling of Large-scale Public Order Events



警方處理大型公眾活動不時引起市民關注，監警會自2009年起便和警方跟進處理大型公眾活動的相關事宜，包括邀請警方的代表出席聯席會議，為監警會委員簡介警方處理有關活動的原則和主要考慮因素，和介紹正在草擬階段的《公眾秩序守則》。

為更全面了解公眾及關注團體對警方處理大型公眾活動的意見，監警會委員在2011年開始和主辦示威遊行的團體及其他持份者會面，包括香港人權監察、民間人權陣線、民主倒梁力量、香港記者協會及香港攝影記者協會。持份者除向委員表達對警方處理大型公眾集會的意見外，並建議監警會現場觀察這些活動。此後，監警會便開始研究在不影響會方中立性的情況下，以何種形式觀察大型遊行示威活動，增進委員會這方面的知識，協助委員將來考慮這些活動衍生的投訴個案。

In view of complaints arising from large-scale public order events from time to time, the IPCC had voiced concerns over police handling of such events since 2009. It invited police representatives to attend the IPCC/CAPO Joint Meeting to brief the meeting on the guiding principles and factors considered when handling such events, as well as introduce the drafting of a "Public Order Manual".

To gain a holistic understanding of the views of the public and interested parties on how the Police handle large-scale public order events, starting in 2011 the IPCC Members held meetings with procession organisers and stakeholders, including the Hong Kong Human Rights Monitor (HKHRM), the Civil Human Rights Front (CHRF), the Anti-CY Alliance (ACA), the Hong Kong Journalists Association (HKJA) and the Hong Kong Press Photographers Association (HKPPA). Apart from offering their opinions to the Members on how the Police handle large-scale public order events, stakeholders invited the IPCC to observe such events on site. With this suggestion, the IPCC started to examine the feasibility of observing large-scale processions while maintaining its impartiality, so that the Members could acquire better knowledge to assist them in dealing with complaints derived from such large-scale events in the future.

## 觀察七一遊行

### Observation of 1 July Procession



2012年監警會委員在警方協助下，從公共安全和公眾秩序的角度，現場觀察警方處理七一遊行的安排。委員先出席警方在6月27日舉行的一場簡報會，介紹警方在處理7月1日的遊行部署，再在遊行當日安排委員實地觀察現場實況。

7月1日的觀察活動在警方指揮中心開始，委員隨後沿著遊行路線到各個警方案制人流的策略性據點觀察，最後抵達政府總部。之後委員往金鐘道及中聯辦觀察人民力量主辦的遊行活動。

委員認為參與這次活動獲益良多，並將當日的觀察向警方反映。之後，監警會再約見其他七一遊行的持份者，包括民間人權陣線、香港記者協會、香港攝影記者協會和香港人權監察會面，聽取他們的意見。

委員之後綜合持份者意見，再向警方反映，以供參考。

In 2012, with the assistance of the Police, the IPCC conducted an on-site observation of the 1 July procession from a public safety and public order perspective. Members first attended a briefing on 27 June organised by the Police, which introduced the Police deployment during the procession, and then they observed the event on site on 1 July.

The 1 July observation started at the Police Command Centre. Members then proceeded to various strategic locations along the route of the procession and finished at the Central Government Offices. The Members then observed the procession organised by People's Power at Queensway and the Liaison Office of the Central People's Government.

The Members found the experience beneficial and shared their views with the Police. The Members later had meetings with the other 1 July procession stakeholders, including CHRIF, HKJA, HKPPA and HKHRM, to gather their views.

The Members consolidated stakeholders' opinions and shared with the Police for referencing.



## 觀察元旦遊行

### Observation of 1 January Procession



2013年監警會委員亦應持份者的邀請參與元旦遊行的觀察，委員先在12月31日出席警方元旦遊行的簡報會，了解警方在公眾安全的前提下，處理大型公眾活動的程序。元旦當日委員及秘書處職員一同出席元旦遊行，進一步了解遊行起點的安排、警方的人流及交通管制措施、街站的情形，和政府總部外的集會情況。活動在警察總部開始，委員沿遊行路線到不同位置觀看，最後抵達政府總部。委員除了由警方陪同下到多個據點觀察外，秘書處的職員亦分成多個小組，在不同地點觀察，以掌握更全面的資料。

其後委員分別再約見民主倒梁力量、香港人權監察、民間人權陣線的代表會面，聽取他們對元旦遊行安排的意見。民主倒梁力量在會面後，正式就元旦當天的事宜作出投訴。

In 2013, IPCC Members were invited by stakeholders to observe the 1 January procession. Members first attended a briefing by the Police on the 1 January procession on 31 December to understand how the Police handle public order events under the mandate of ensuring public safety. A group of Members and Secretariat staff attended the 1 January procession. The visit was to provide the IPCC Members with a better understanding of police arrangements at the starting point of the procession; the handling pedestrian flow, traffic, and street stalls; and the gathering outside the Central Government Offices. The visit began at the Police Headquarters. The IPCC Members then proceeded to various strategic locations along the routes of the public procession, ending at the Central Government Offices. Not only Members were accompanied by the Police to observe at different locations; Secretariat staff also were divided into small groups to observe at different sites of the procession in order to acquire a more comprehensive understanding of the situation.

Subsequently, Members had meetings with representatives of ACA, HKHRM and CHRF, respectively, to learn their views on the 1 January procession arrangements. After the meeting, ACA filed a complaint regarding the 1 January procession.

## 2013年七一遊行

### 1 July Procession in 2013



2013年的七一遊行，監警會更首次派秘書處的職員，以獨立的身份，列席警方和七一遊行的主辦團體民間人權陣線的會議，從旁觀察，以了解組織大型遊行活動的規劃、籌備，以至活動當日執行的整體情況及全面的過程。出席的職員會將觀察所得向整個委員會報告，以便討論有關事宜。

監警會委員於6月26日出席警方的簡報會後，多位監警會委員與秘書處職員於七一遊行當日進行現場觀察。委員除了由警方陪同下到多個據點觀察外，秘書處的職員亦分成多個小組，在不同地點觀察，以掌握更全面的資料，進一步從多角度了解遊行起點的安排、警方的人流及交通管制措施、街站的情況，和中環遮打道行人專用區的集會情況。

其後，監警會於8月先後約見主辦團體民間人權陣線的代表以及和警方會面，在聆聽民間人權陣線代表的意見後，監警會再將有關意見向警方反映，以供考慮。

For the first time, the IPCC assigned Secretariat staff members to attend, in an independent capacity, the 1 July procession preparatory meeting, between the Police and the march organiser, the CHRF, in order to understand how the group organised and prepared for such a large-scale event as well as how the Police arranged and conducted the on-site operations. The staff members reported their observations to the Council to facilitate further discussion.

A group of IPCC members and Secretariat staff observed the 1 July procession after attending a police briefing on 26 June. Council Members proceeded to various strategic locations with the Police on that day. Meanwhile, Secretariat staff in various groups observed the march at different locations to gather comprehensive information on police arrangements at the starting point of the procession, the handling of pedestrian flow, traffic and street stalls; and the gathering outside the pedestrian precinct on Chater Road, Central.

The IPCC then met with the CHRF and the Police respectively in August. Representatives from CHRF expressed their opinions, among which IPCC would reflect relevant suggestions to the Police for their consideration.