

Press release

IPCC recommends the Police to enhance police officers' understanding of the codes in relation to disclosing police identity while off duty

(HONG KONG – 26 April 2017) The Independent Police Complaints Council (IPCC) today released its twenty-first issue of the *IPCC Newsletter*. The cover story features three complaint cases related to the police officers revealing their police identity while off duty. The Viewpoint from IPCC includes the sharing from nine new Members who were recently appointed to the IPCC. Other contents also include the Council's recent engagement activities with various stakeholders.

Mr Larry Kwok Lam-kwong, Chairman of the IPCC, said, "Many people may have misbelief that only the conduct of the on-duty police officers will be subject to complaints. In fact, according to the Independent Police Complaints Council Ordinance, a complaint may be classified as a "Reportable Complaint" if the complaint relates to the conduct of a member of the police force who identified himself as such member while off duty. The Complaints Against Police Office (CAPO) is required to submit the investigation report of the Reportable Complaint to the IPCC for review."

Mr Daniel Mui, Deputy Secretary-General (Operations) of the IPCC, shared three real complaint cases related to the off-duty police officers. In case 1, an off-duty Police Constable, who was dissatisfied with the driving manner of the Complainant (a driver of the Post Office), overtook the Complainant's vehicle and stopped his car in front of it. The Police Constable then showed his warrant card and warned the Complainant that he would prosecute the Complainant for "Careless Driving". The Complainant lodged a complaint that the Police Constable had inappropriately blocked his driving path [Allegation (a): Misconduct], and had talked to him impolitely [allegation (b): Impoliteness]. Based on the video clip provided by the Complainant, the IPCC opined that both allegations should be classified as "Substantiated". Furthermore, the IPCC considered that the Police Constable should not have revealed his police identity while off duty as such acts were inappropriate and unnecessary. The IPCC recommended that an additional count of "Misconduct" allegation with the classification of "Substantiated Other Than Reported" be registered against the Police Constable.

In case 2, an off-duty Police Constable was alleged that he inappropriately showed his

warrant card during a minor traffic incident [Allegation: Unnecessary Use of Authority]. One of the family members of the Police Constable stopped the private car next to the Complainant's car at a lay-by area. Another family member of the Police Constable opened the door to get out of the vehicle but the door accidentally scratched the Complainant's car. During CAPO's investigation, the Police Constable admitted that he showed his warrant card to the Complainant, and asked about the damage of his car. Both the Complainant and Complainee's parties alleged being abused verbally by each other. CAPO initially classified the allegation as "Unsubstantiated" because there was no independent evidence to support either one of their versions of the events. There was no evidence to support the suggestion that the Police Constable had ill intent in showing his police warrant card, let alone was seeking to exert pressure on the Complainant. However, IPCC was of the view that since the Police Constable is a close relative of one party in the traffic incident, his acts might have given the Complainant a wrong perception that the Police Constable was using his police identity to settle the traffic incident. To avoid any possible conflict of interests, the Police Constable should not have displayed his warrant card. Therefore, IPCC suggested that the allegation should be re-categorised to "Misconduct" and classified as "Substantiated".

In case 3, the Complainant suddenly assaulted a female passenger in a MTR train compartment. An off-duty Sergeant, together with two other passengers attempted to subdue the Complainant. The Complainant was charged with "Assault Occasioning Actual Bodily Harm" and was convicted after trial. He then lodged a complaint against the Sergeant, claiming that the Sergeant used excessive force against him when subduing him [Allegation (a): Unnecessary Use of Authority], and gave false evidence in court [Allegation (b): Fabrication of Evidence] – namely stating that the Complainant attacked him, tried to escape, and that the Sergeant had revealed his police identity inside the train compartment. The IPCC agreed with CAPO's findings, both allegations should be classified as "No fault" on the ground that the Sergeant was discharging his police duty as soon as he became aware of the attack on the female passenger. He was exercising his legal power to apprehend the offender. The witnesses' statements to CAPO supported that the Complainant had put up a vigorous struggle and had even attempted to strike the Sergeant with his fist; therefore the force used by the Sergeant was reasonable. The Sergeant was honest in his testimony against the Complainant at court. IPCC recommended CAPO to compliment the Sergeant on his righteous behaviour.

Mr Kwok, Chairman of the IPCC, further commented that, "The results of these three complaint cases illustrate how the IPCC scrutinizes the investigation report of every complaint case independently, fairly, and on the basis of evidence. In response to these complaint cases, the IPCC requested CAPO to enhance police officers' understanding of Police General Order

and codes in relation to disclosing police identity when they are off duty.”

CAPO has accepted the recommendation and reminded all officers through “Outreach Programme” and “CAPO e-Newsletter” channels that they should not inappropriately reveal their police identity while dealing with members of the public in their personal capacity when they are off duty.

The twenty-first issue of the *IPCC Newsletter* is now available on the IPCC’s website at: <http://www.ipcc.gov.hk/en/publications/newsletters/2017.html>

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Notes to editor:

About the Independent Police Complaints Council

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). The IPCC has become a statutory body since the commencement of IPCCO on 1 June 2009.