

## **Press release**

### ***IPCC fairly examines complaints arising from criminal investigation***

#### ***Complainants shall provide accurate information and avoid abusing complaint mechanism***

(HONG KONG – 11 September 2017) The Independent Police Complaints Council (IPCC) today released its twenty-second issue of the *IPCC Newsletter*. The cover story features two complaint cases arising from criminal investigation and statistics concerning tactical complaints. Other contents also include the Council's recent engagement activities.

In case 1 of the cover story, a Chief Inspector (CIP) was complained of putting the Complainant on the Wanted and Watch List without sufficient evidence during the investigation of a suspected "Theft" case [Allegation 1: Neglect of Duty]. The Complainant, an expatriate, had been hired to work in Hong Kong for a company ("the Company"). He was subsequently dismissed and reported by the Company of stealing the furniture with a value of HK\$20,000 in the staff quarters. The CIP, who was in charge of the investigation, considered that the offence was serious. After repeated attempts to reach the Complainant and failed, the CIP decided to put the Complainant on the Wanted and Watch List considering that the Complainant would likely leave Hong Kong. Thereafter, the Complainant was arrested at the airport when he was departing from Hong Kong. Under caution, the Complainant stated that the furniture was a gift offered by the Company for hiring him from abroad. Complaints Against Police Office (CAPO) initially classified the allegation as "No Fault".

However, the IPCC opined that putting a suspect on the Wanted and Watch List was a serious infringement of one's liberty, which should be supported by strong justification. As the Company was unable to give details about the alleged stolen furniture and provide any written records to prove the ownership of the furniture, the IPCC therefore recommended reclassifying the allegation of "Neglect of Duty" against the CIP from "No Fault" to "Substantiated". The CIP was finally given an advice without Division Record File (DRF) entry.

In case 2, a Woman Inspector of Police (WIP) was alleged that she had failed to investigate a wounding case properly by asking the Complainant to consider "Binding Over" in order to conclude the case [Allegation: Neglect of Duty]. The Complainant was a taxi driver and his taxi was hit by a group of drunken persons for no reason. The Complainant and his friend came forward to stop the drunkards, and a fight between them ensued. The Police arrived and

arrested the Complainant, his friend and one of the drunken persons. Each of the three persons stated that it was the other party who initiated the fight. Considering that witness had seen the arrested parties fighting, though the CCTV footage was of low resolution and the witness refused to attend the identity parade, the WIP opined that according to the Police Manual, “Applications to bind a person over may be made in minor cases where it is obvious that both parties are at fault with no evidence to support either part in their counter-allegations.” CAPO therefore classified the “Neglect of Duty” allegation against the WIP as “Unsubstantiated”.

However, the IPCC opined that, as shown by the evidence, the Complainant and his friend sustained wounds on their heads requiring multiple stitches, which were far more serious than the injuries of the drunkard. Also, the WIP overlooked the witness statement from a man who worked nearby and witnessed part of the incident. The witness claimed that two persons fell down on the floor after being assaulted by the drunkard. It could be the case that the Complainant and his friend were victims in this incident. The IPCC was of the view that there was some compelling evidence that the WIP did not fully examine all the available evidence before suggesting both parties to consider “Binding Over” in order to conclude the case. Moreover, the Department of Justice (DOJ) recommended charging the drunkard, who was convicted by the Court after trial. Therefore, the IPCC recommended reclassifying the “Neglect of Duty” allegation to “Not Fully Substantiated”. The WIP was given an advice without DRF entry.

Mr Daniel Mui, Deputy Secretary-General (Operations) of the IPCC, said, “In the above two cases, the IPCC recommended CAPO reclassifying the investigation results after raising Queries and conducting working level meetings with CAPO, who finally accepted those recommendations. The investigation results reflected that the IPCC would handle every complaint case in an impartial, fair and evidence-based manner.”

In addition, the IPCC revealed that many of the complaints arising from criminal investigation involve allegations against police officers regarding use of improper means, including “Assault”, “Inducement” and “Threat”, to obtain admissions from the Complainants, or fabrication of evidence, record of inaccurate statements or conduct of investigations that were neither thorough nor impartial. During the first half of 2017, the IPCC endorsed a total of 776 complaint cases (reviewed cases excluded), of which 213, or about one-fourth, belongs to the aforementioned categories.

Among these 213 complaint cases, 47 were fully investigated by CAPO and reviewed

by the IPCC. Based on court results and/ or evidence obtained from investigation, 39 of them were classified as “False” or “No Fault”. The IPCC found that some of the Complainants had initially pleaded not guilty at court and challenged the admissibility and voluntariness of the cautioned statements, but after the statements were ruled admissible by court, the Complainants pleaded guilty instead. After the trials, they also did not follow up on the matter concerned with CAPO. Therefore, the IPCC was of the view that the above “False” and “No Fault” cases might be tactical complaints where the Complainants initially used their complaints against police officers only as a line of defense. The remaining 166 cases were later classified as “Withdrawn” as requested by the Complainants or as “Not Pursuable” due to the Complainants’ refusal to respond to the follow-up by CAPO.

Mr Larry Kwok Lam-kwong, Chairman of the IPCC, said, “The IPCC hopes that members of the public understand that a complaint mechanism is one of the cornerstones for a liberal society. Therefore, a Complainant should make sure that all information provided is accurate when executing his/her civil rights, so that our public resources for complaint handling could be effectively deployed.”

The twenty-second 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.