

Challenges and Opportunities for Hong Kong's Independent Police Complaints Council



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Points of View



1. IPCC's Relationship with **CAPO**
2. IPCC's Relationship with the **Public**
3. IPCC's Relationship with the **Chief Executive**

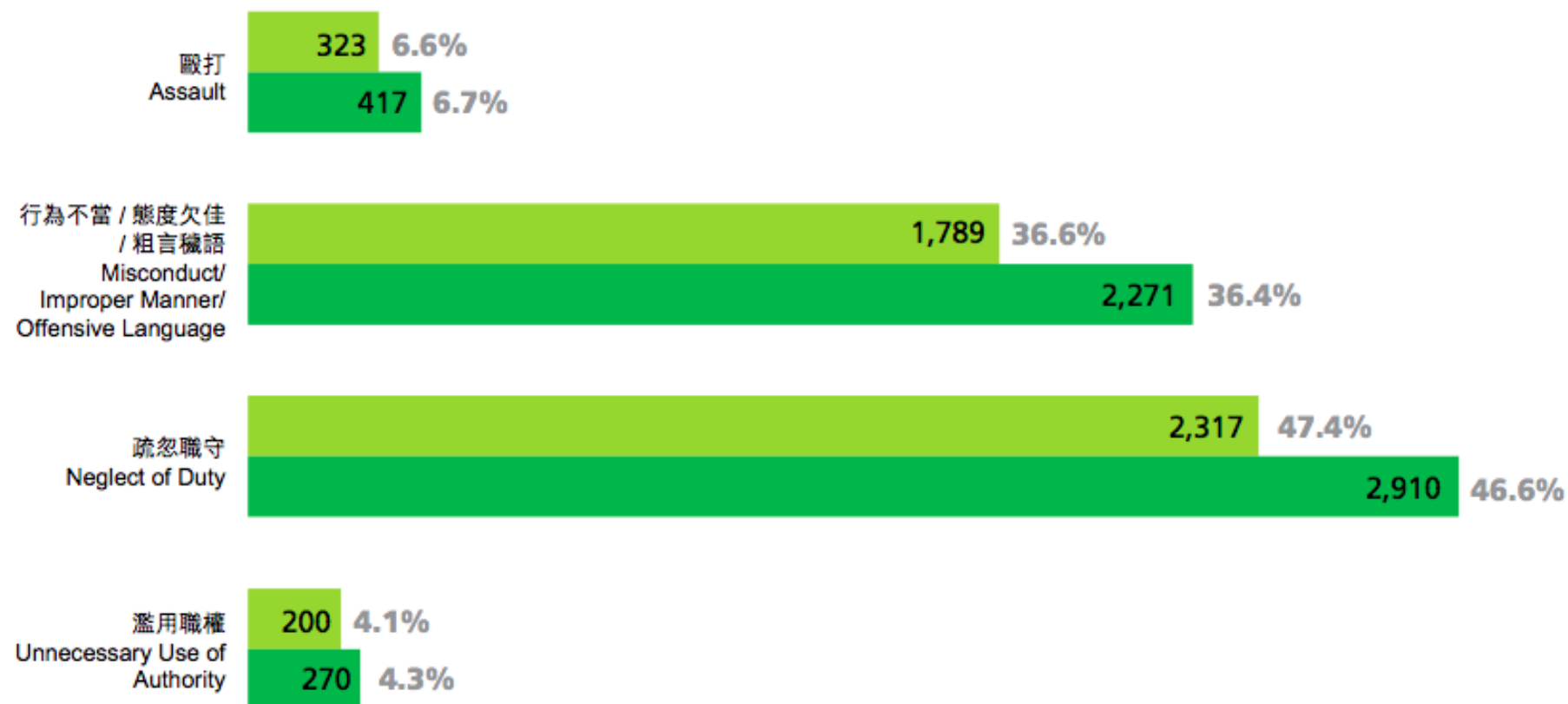
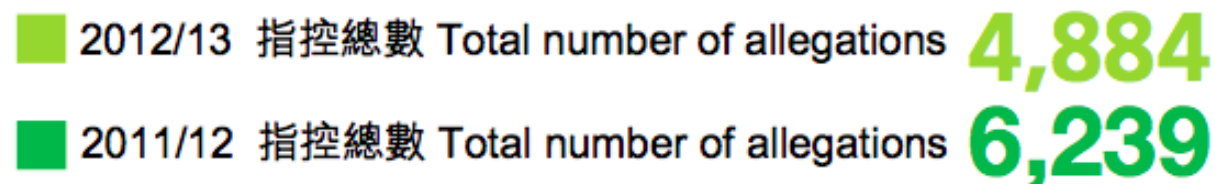
IPCC and CAPO



- ☞ Challenge: Demonstrating independence and not a ‘rubber stamp’ of CAPO.
- ☞ E.g. the problem of the terminology of “endorsement”

監警會通過的指控

Allegations endorsed by the IPCC



CAPO to be conducted

進一步審核
Further vetting

未能就
調查結果達成共識
Case unresolved

監警會 / 投訴警察課
聯席會議討論
Discussion at Joint IPCC/
CAPO Meeting

回覆投訴人
Respond to complainant

委員確定
Council's
confirmation

調查結果不獲通過
Investigation result
NOT endorsed

通過調查結果
Investigation
result endorsed

- 向行政長官報告
Report to the Chief Executive
- 向公眾披露雙方就調查結果的意見分歧/
就對被投訴警務人員採取的行動的意見
Disclose disagreement on investigation
result/opinion on actions to be taken against
defaulting officers

16	<p>指定採訪區的位置及記者個人物品的搜查</p> <p>Designated Press Area locations and search of reporters' personal belongings</p>	<p>指定採訪區的位置</p> <p>Location of Designated Press Area</p>	<p>(a) 疏忽職守</p> <p>(b) 濫用職權</p> <p>(c) 疏忽職守</p> <p>(d) 及(f) 疏忽職守</p> <p>(e) 行為不當</p> <p>(a) NOD</p> <p>(b) UUOA</p> <p>(c) NOD</p> <p>(d) & (f) NOD</p> <p>(e) Misconduct</p>	<p>並無過錯</p> <p>獲證明屬實</p> <p>獲證明屬實</p> <p>監警會沒有通過調查結果*</p> <p>投訴撤回</p> <p>No Fault</p> <p>Substantiated</p> <p>Substantiated</p> <p>Not endorsed by IPCC*</p> <p>Withdrawn</p>
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* 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

Cap 604 s 19 Council may advise Commissioner of its opinion or recommendation on investigation report

(1) The Council may, in relation to an investigation report submitted under section 17, advise the Commissioner of—

- (a) its recommendation on the classification of the complaint;
- (b) its recommendation on the Commissioner's handling or investigation of the complaint;
- (c) its recommendation on any fault or deficiency identified in any practice or procedure adopted by the police force;
- (d) its opinion on the action taken or to be taken in respect of a member of the police force by the Commissioner in connection with the complaint; or
- (e) its recommendation on the report other than those mentioned in paragraphs (a), (b) and (c).

(2) If an investigation report is amended in response to the Council's recommendations referred to in subsection (1), the Commissioner must submit the report as amended to the Council as soon as practicable.

(3) The Council may, if it considers appropriate, submit any part of its opinion or recommendation referred to in subsection (1) to the Chief Executive for consideration.

IPCC and CAPO



- ❧ Challenge: Demonstrating independence and not just a ‘rubber stamp’ of CAPO.
 - ❧ E.g. the problem of the terminology of “endorsement”
- ❧ Opportunity: Facilitate greater CAPO transparency.

Complaint Against the Police



[Home](#) > [Complaint Against the Police](#)



Complaint Against the Police

- [Channels](#)
- [Handling Procedures by CAPO](#)
- [Classification of Investigation Results](#)
- [Other Ways of Handling Complaints](#)



YouTube

CC Channel



Home \ Useful information \ **Information on Complaints Against Police**



Information on Complaints Against Police

- [Complaints Against Police Office - A Guide for Complainants](#)
- [Complaints Against Police Office - Performance Pledge Leaflet](#)
- [IPCC Observers Scheme Leaflet](#)
- [Online Report Form – Complaints Against Police](#)

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IPCC and Public



- ❧ Challenge: Proceeding cautiously with on-site observations of practices and procedures.
- ❧ Perceived as being too close to the police.
- ❧ Risk of ‘entering the arena’ vis-à-vis monitoring function.

觀察七一遊行

Observation of 1 July Procession



SY 2014 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

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

Cap 604 s 8 Functions of Council

(1) The functions of the Council are—

- (a) to observe, monitor and review the handling and investigation of reportable complaints by the Commissioner, and to make recommendations (as the Council considers appropriate) to the Commissioner or the Chief Executive or both of them in respect of the handling or investigation of reportable complaints;
- (b) to monitor actions taken or to be taken in respect of any member of the police force by the Commissioner in connection with reportable complaints, and to advise (as the Council considers appropriate) the Commissioner or the Chief Executive or both of them of its opinion on such actions;
- (c) to identify any fault or deficiency in any practice or procedure adopted by the police force that has led to or might lead to reportable complaints, and to make recommendations (as the Council considers appropriate) to the Commissioner or the Chief Executive or both of them in respect of such practice or procedure;
- (d) to review anything submitted to it by the Commissioner pursuant to this Ordinance;
- (e) to promote public awareness of the role of the Council; and
- (f) (without limiting the generality of the foregoing) any function conferred on it by or under this or any other Ordinance.

(2) The Council may do all such things that are reasonably necessary for, or incidental or conducive to, the performance of its functions under this Ordinance.

IPCC and Public



- ❧ Challenge: Proceeding cautiously with on-site observations of practices and procedures.
 - ❧ Perceived as being too close to the police.
 - ❧ Risk of ‘entering the arena’ vis-à-vis monitoring function.

- ❧ Opportunity: Strengthen IPCC-complainant relations.
 - ❧ E.g. make classifications more understandable.

Cap 604 s 24 Notification of classification of reportable complaint and result of review

(1) In the case of a reportable complaint that is not a request for review, the Commissioner must notify—

(a) the complainant; or

(b) (where the reportable complaint was made by a person on behalf of the complainant) the person who made the complaint,

of the classification of the reportable complaint and the reasons for the classification.

(2) In the case of a reportable complaint that is a request for review, the Council must notify—

(a) the complainant; or

(b) (where the reportable complaint was made by a person on behalf of the complainant) the person who made the complaint,

of the result of the review and the reasons for the result.

(3) Subsections (1) and (2) do not apply where the complainant or the person has indicated to the Commissioner or the Council that he does not wish to be so notified.

Conclusion

2.16.16 IPCC therefore opines that it is more prudent to classify Allegations (d) and (f) as “**Unsubstantiated**”. Hence, IPCC does not endorse the “**No Fault**” classification proposed by CAPO for Allegations (d) and (f). CAPO, however, maintains that both allegations should be classified as “**No Fault**”. Since CAPO does not subscribe to the view of IPCC, IPCC’s opinion as aforesaid is submitted to CE for consideration pursuant to section 19(3) of the IPCCO.

Substantiated

An allegation is classified as "Substantiated" where there is sufficient reliable evidence to support the allegation made by the complainant.

Substantiated Other Than Reported

An allegation is classified as "Substantiated Other Than Reported" where matters other than the original allegations raised by the complainant, which are closely associated with the complaint and have a major impact on the investigation, have been discovered and are found to be substantiated.

Not Fully Substantiated

An allegation is classified as "Not Fully Substantiated" where there is some reliable evidence to support the allegation made by the complainant, but it is insufficient to fully substantiate the complaint.

Unsubstantiated

An allegation is classified as "Unsubstantiated" where there is insufficient evidence to support the allegation made by the complainant.

No Fault

Two common reasons for classifying a complaint as "No Fault" are first, the complainant may have misunderstood the facts; and second, the complaine was acting under the lawful instructions of his superior officer or in accordance with established police practice.

False

An allegation is classified as "False" where there is sufficient reliable evidence to indicate that the allegation made by the complainant is untrue, be it a complaint with clear malicious intent or a complaint which is not based upon genuine conviction or sincere belief but with no element of malice.

When a complaint is classified as "False", CAPO will consider, in consultation with the Department of Justice as necessary, prosecuting the complainant for misleading a police officer.

IPCC and the CE



- ❧ Challenge: Proper handling of complaints against the IPCC.
- ❧ E.g. recent IPCC Special Committee's findings

Findings of the Special Committee on Complaints
Against IPCC Chairman, Secretary-General and IPCC Member Mr. Eric CHEUNG

Introduction

Between August and September 2013, IPCC received 66 complaints from the public concerning statements made by IPCC Chairman Mr. JAT Sew-tong (“Chairman”), Secretary-General Mr. Ricky CHU (“SG”) and IPCC Member Mr. Eric CHEUNG (“CHEUNG”) in several media interviews they attended between 6 August 2013 and 14 August 2013. These statements related to the participation of retired and off-duty police officers, including Superintendent Mr. LAU Tat-keung (“LAU”) who was then on pre-retirement leave, in a pro-police rally organized by the Federation of Hong Kong Parents Associations (香港家長聯會) and the Hong Kong Action (香港行動) at Sai

IPCC and the CE



- ❧ Challenge: Proper handling of complaints against the IPCC.
 - ❧ E.g. recent IPCC Special Committee's findings
- ❧ Opportunity: Highlighting reports to CE to underline independence.
 - ❧ E.g. keep a running list of cases readily accessible on website.

End



Thank you.

Questions and comments welcome.