

# 監警會 通訊

# IPCC NEWSLETTER



**監警會仔細審核每宗投訴個案  
確保對投訴人和警務人員均公平公正**  
**IPCC meticulously examines every complaint case  
to ensure fairness to both Complainants and  
Police Officers involved**



獨立監察警方處理投訴委員會  
Independent Police Complaints Council

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### 監警會仔細審核每宗投訴個案 確保對投訴人和警務人員均公平公正

#### IPCC meticulously examines every complaint case to ensure fairness to both Complainants and Police Officers involved

近年，公眾對警隊的表現及操守的期望日漸提高，因此更加重視與警察有關的投訴調查和處理。監警會的法定職能是觀察、監察和覆檢警方處理和調查須匯報投訴的工作，一向以證據為依歸，以法律為準繩，以公正為目標，全面審核每宗投訴個案。今期的封面故事將介紹三宗個案，其中兩個案件涉及警務人員「疏忽職守」或「行為不當」的投訴，所有相關指控均被分類為「獲證明屬實」，最終令其中四名被投訴人須接受紀律覆檢；而第三宗「投訴撤回」的個案經監警會審核後則重新分類為「虛假不確」。三宗個案均反映監警會仔細審核每宗投訴個案，確保對投訴人和警務人員均公平公正。

In recent years, the handling of complaints against the Police has drawn much public attention due to their growing expectation on the performance standard and conduct of the Force. The IPCC, with its primary statutory function to observe, monitor and review the handling and investigation of Reportable Complaints by the Police, has always examined complaint cases based on evidence and in accordance with applicable laws with an aim to reach impartial conclusion for every complaint. In this issue, the cover story features three complaint cases of which two of them involved “Neglect of Duty” or “Misconduct” of the police officers. All related allegations under these two cases were classified as “Substantiated” which resulted in four police officers being subjected to “Disciplinary Review”. In the third case, the allegations were reclassified from “Withdrawn” to “False” after IPCC’s examination. The three complaint cases illustrated the meticulous approach adopted by the IPCC in examining every complaint to ensure fairness to both Complainants and police officers involved.

#### 個案一：刑事案件調查程序不當導致法庭撤銷起訴

##### Case 1 : Procedural impropriety in crime investigation resulting in the dismissal of charges

###### 背景

一名時裝店售貨員懷疑投訴人企圖以詐騙方式在時裝店退換衣服，即以盜版或不符合退換條款的衣物從時裝店換取真貨。售貨員相信投訴人在過去兩個月內六度以同樣方式退換貨品，遂報警求助。當區情報組（情報組）接報

###### Background

The salesperson of a clothing store called the police for assistance as the salesperson suspected that the Complainant (COM) attempted to swap for genuine branded clothes fraudulently from the store by using counterfeit clothes and those which were not eligible for exchange. The salesperson believed that COM had used similar ways to deceive the store on six different

# 封面故事

## Cover story



投訴人被指企圖以詐騙方式在時裝店退換衣物。  
(資料圖片)

**The Complainant was accused of attempting to swap clothes fraudulently at a fashion store.**  
(Stock photo)



投訴人投訴一名警務人員在搜屋時沒有向她作出警誡。  
(照片來源：星島日報)

**The Complainant alleged that a police officer had failed to caution her during the house search.**  
(Photo credit: Sing Tao Daily)

到場，以「欺詐」罪拘捕投訴人。被投訴人一（情報組警員）及其團隊在投訴人和其父親在場下搜查投訴人的住所。搜查期間，投訴人父親以手機錄下投訴人和被投訴人一的話。根據錄音，被投訴人一在投訴人的臥室內發現並檢獲衣物，但在查問衣物的來源前，並未按照警務程序事先警誡投訴人。投訴人當時並無認罪。搜查後，被投訴人一在其警察記事冊和投訴人的警誡供詞中，卻記錄自己在查問投訴人如何取得在房間內檢獲的衣物前曾警誡投訴人。

被投訴人二至四（分別是調查隊的一名警員、一名女警員和一名警長）隨後接手調查案件。期間，投訴人暗中使用手機錄下她與被投訴人二至四的對話。在全長約50分鐘的錄音開首，被投訴人二和三反覆查問投訴人如何欺騙商店換取真貨，但投訴人聲稱她只是以正當的方式購買和更換衣服。

occasions in the preceding two months. The District Intelligence Section (DIS) attended the store and arrested COM for “Deception”. Complainee 1 (COMEE 1), a Police Constable of DIS, and his team conducted a search at COM’s residence in the presence of COM and COM’s father. COM’s father used his mobile phone to record the conversation between COM and COMEE 1 during the house search. The audio recording revealed that, before questioning COM about the source of the clothes found and seized in her bedroom, COMEE 1 did not caution COM in advance as required in the police procedures. COM did not make any admission when being questioned. Following the house search, COMEE 1 however recorded on his notebook and COM’s cautioned statement that he had cautioned COM immediately before questioning how she got the clothes found in her bedroom.

Complainees 2-4 (COMEEs 2-4), including a Police Constable, a Woman Police Constable and a Sergeant of District Investigation Team (DIT) respectively, then took over the case for further investigation. COM secretly used her mobile phone to record the conversation COMEEs 2-4 had with her. The voice record which lasted for approximately 50 minutes revealed that at the beginning of their conversation, COMEEs 2 and 3 repeatedly asked COM how she deceived the store to exchange for genuine clothes but COM claimed that she purchased and exchanged the clothes in a proper way.

被投訴人四其後加入對話，並告訴投訴人若她一直不合作，便會考慮拘捕其父母，因被投訴人四稱他不知道投訴人的父母有否參與其中。被投訴人四亦對投訴人聲稱她只會被罰款。經過長時間反覆盤問後，投訴人終承認以欺騙手段從商店取得衣物。被投訴人二和三隨後與投訴人進行錄影會面，投訴人在警誡下承認罪行。根據警方紀錄，被投訴人三在錄影會面前，曾用長達70分鐘為投訴人套取指模，而以上不當盤問投訴人的過程並沒有任何紀錄。因此有理由相信有關套取指模的時間紀錄並不真實，用以掩飾被投訴人二至四的盤問。

投訴人其後被控「以欺騙手段取得財產」及「企圖以欺騙手段取得財產」。審訊期間，投訴人否認控罪，並就被投訴的警務人員處理案件的手法提出指控。辯方提供了分別由投訴人及其父親錄下的兩段錄音，以證明投訴人的投訴。控方考慮錄音內容後，決定不繼續提出證供。法庭亦撤銷對投訴人的所有控罪。

### 投訴警察課的調查

及後，投訴警察課重新展開投訴調查，並向投訴人錄取口供。投訴人的指控包括：被投訴人一在搜屋時沒有向她作出警誡【指控一：疏忽職守】，而被投訴人二至四則威嚇並誘勸她認罪【指控二：行為不當】。

被投訴人一至四與投訴警察課會面期間否認上述指控，並聲稱無法辨認投訴人及其父親提供的兩段錄音內容。投訴警察課認為錄音的真實性存疑，且沒有獨立證據支持上述指控。因此，投訴警察課最初將所有指控分類為「無法證實」。

COMEE 4 later joined in the conversation and told COM that if she persistently refused to cooperate, he would consider arresting COM's parents as COMEE 4 stated that he was not sure whether they were involved in the incident. COMEE 4 told COM that she would only be sentenced to a fine. After a prolonged interrogation, COM finally admitted having obtained the clothes from the store by deceptive means. COMEES 2 and 3 then conducted a Video Recorded Interview (VRI) with COM in which COM admitted the offence under caution. According to the police record, immediately before conducting the VRI with COM, COMEE 3 spent an unreasonably long period of time of 70 minutes on taking fingerprints from COM. There was not any record of the above improper interrogation of COM prior to the VRI. It was believed that the purported time spent on taking fingerprints was inaccurately recorded to cover up COMEES 2-4's interrogation.

COM was subsequently charged with "Obtaining Property by Deception" and "Attempted Obtaining Property by Deception". During the trial, COM pleaded not guilty and raised allegations concerning the improprieties of the COMEES in handling the case. The Defence presented two audio clips recorded by COM and COM's father respectively in support of her allegations. Taken into account the information transpired from the audio recordings, the Prosecution offered no further evidence. The court dismissed all charges against COM.

### CAPO's investigation

Thereafter, CAPO resumed the complaint investigation and obtained a statement from COM in which COM alleged, among other things, that COMEE 1 had failed to caution her during the house search [Allegation 1: Neglect of Duty] and that COMEES 2-4 had threatened and induced her to admit the offence [Allegation 2: Misconduct].

When interviewed by CAPO, COMEES 1-4 denied the allegations and claimed that they could not recognize any of the voices on the two audio recordings provided by COM and her father. CAPO was of the view that the authenticity of the audio recordings was in doubt and there was no independent evidence to support the allegations. CAPO initially classified all allegations as "Unsubstantiated".

### 監警會的觀察

鑑於指控性質嚴重，個案遂交由監警會嚴重投訴個案委員會密切跟進。

監警會徹底審核兩段錄音和相關警方紀錄，認為兩段錄音真實可信。錄音記錄了相信是被投訴的警務人員向投訴人說出他們的姓名、職級、所屬單位以及投訴人被拘捕罪行的詳情。這些資料都與被投訴的警務人員的身份以及相關刑事案情吻合。錄音亦揭露了被投訴人一在投訴人家中向投訴人查問搜出的衣物前，很大可能沒有警誡投訴人，以及被投訴人二至四似乎威嚇和誘勸投訴人認罪的過程。由於兩段錄音提供了充足證據支持投訴人的指控，故此監警會要求投訴警察課將有關指控重新分類為「獲證明屬實」。

有關指控一，被投訴人一應在提出任何可牽連投訴人的問題前給予警誡。更加重要的是，被投訴人一不應該在警察記事冊和投訴人的警誡供詞中，記錄自己在搜查期間，向投訴人查問關於搜出的衣物前曾向她作出警誡。鑑於被投訴人一犯下嚴重的程序不當行為，故應給予「警告並記入其分區報告檔案中」。

至於指控二，錄音內容顯示被投訴人二至四均曾盤問投訴人。及後，投訴人在錄影會面中亦認罪。被投訴人二至四無疑違反了《查問疑犯及錄取口供的規則及指示》，當中要求所有警員提醒被捕人士有權保持緘默，並在疑犯自願的基礎上獲取供詞，而非採取威逼或恐嚇的方式。套取指模的時間紀錄也很可能不真確，以掩飾被投訴人二至四的盤問。因此，監警會要求投訴警察課將有關被投訴人二至四的指控二重新分類為「獲證明屬實」。鑑於不當盤問屬嚴重不當行為，故應對被投訴人二至四進行「紀律覆檢」。

經過嚴重投訴個案委員會的質詢，以及監警會和投訴警察課的討論，投訴警察課最終接納監警會的上述建議。監警會遂通過這宗個案的調查結果。

### IPCC's observation

In the light of the seriousness of the allegations, this case was put under the close scrutiny of IPCC's Serious Complaints Committee (SCC).

Upon thorough examination of the two audio recordings and the relevant police records, IPCC had no doubt about the authenticity of the two audio recordings on which the persons believed to be COMEEs had stated to COM their names, ranks and investigation units as well as the details of COM's arrested offence, which matched with the identities of COMEEs and the crime case details. It transpired from the audio recordings that it was highly likely that COMEE 1 did not caution COM before asking COM about the clothes found in the house search and that COMEEs 2-4 had seemingly induced and threatened COM to admit the offence. As the two audio recordings unveiled sufficient evidence to support COM's allegations, IPCC requested CAPO to reclassify the allegations concerned as "Substantiated".

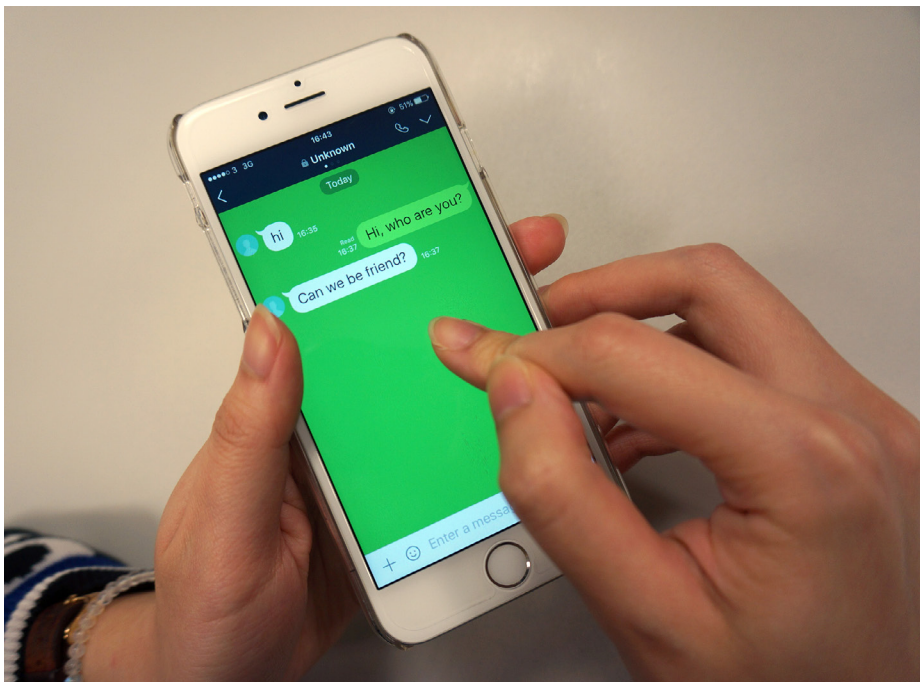
On Allegation 1, COMEE 1 should have cautioned COM before asking questions as the answers could implicate COM. More importantly, COMEE 1 should not record in his notebook and COM's cautioned statement that he had cautioned COM before questioning her about the clothes found during the house search which in fact he had not. COMEE 1 should be given "Warning with DRF entry" for this serious procedural impropriety.

As for Allegation 2, the audio recording revealed that COMEEs 2-4 had interrogated COM. She admitted the offence in the subsequent VRI. COMEEs 2-4 had undoubtedly breached the "Rules and Directions for the Questioning of Suspects and the Taking of Statements" which require all police officers to remind the arrested persons of their right to remain silent and to obtain statements from the suspect on the basis of voluntariness, without fear of prejudice, hope of advantage or oppression. The time reported for fingerprinting was also likely an inaccurate record to cover up COMEEs 2-4' interrogation. IPCC therefore requested CAPO to reclassify Allegation 2 against COMEEs 2-4 as "Substantiated". Given that the improper interrogation is a serious misconduct, a Disciplinary Review should be conducted against COMEEs 2-4.

After an SCC's Query and discussions between IPCC and CAPO, CAPO subscribed to the above IPCC's recommendations. IPCC thus endorsed the investigation result of the case.

### 個案二：警務人員擅取個人資料作私人用途

#### Case 2 : A police officer inappropriately collected personal data for private use



投訴人投訴一名警務人員在執行職務期間不恰當地取得她的個人資料，且透過電話和WhatsApp私下與她聯絡。  
(設計圖片)

*The Complainant alleged that a police officer had inappropriately collected her personal data during execution of his duty and contacted her by phone and WhatsApp for private use.*

*(Illustration)*

#### 背景

一名警員(被投訴人)在執行交通管制期間，看見一名女途人(投訴人)並跟隨她進入港鐵站。該名警員截停投訴人，要求查核她的身份證，先索取她的個人資料，包括手提電話號碼、住址和職業，其後更詢問投訴人可否與她交朋友。

同日，投訴人收到該名警員的來電和WhatsApp訊息，再次表示希望成為她的朋友並再度試圖與她交朋友和約她見面。投訴人安排一名朋友假裝為自己與該名警員聊天，錄下這些電話對話和訊息，並於當晚發布在其Facebook。

#### Background

While a Police Constable (Complainee) was conducting traffic enforcement, he spotted the female Complainant on the street and followed her into a MTR station. The Police Constable intercepted the Complainant and requested to check her HKID card. After collecting her personal details including telephone number, residential address and occupation, the Police Constable requested to befriend with the Complainant.

Later on that day, the Complainant received calls and WhatsApp messages from the Police Constable, in which he tried to befriend with her again and seek to date her. The Complainant asked a friend to pretend to be her and chatted with him. She recorded the Police Constable's phone conversations and messages, and posted them on her Facebook that night.

投訴人隨後投訴該名警員在執行職務期間不恰當地取得她的個人資料，且透過電話和WhatsApp私下與她聯絡。【指控：行為不當】

### 投訴警察課的調查

經調查後，投訴警察課認為閉路電視錄像、電話錄音、WhatsApp訊息等多項獨立證據，均足夠支持指控。該課亦注意到，涉事警員在調查期間作出虛假陳述，並撕毀警察記事冊的其中數頁，企圖掩飾事件。因此，投訴警察課決定將指控分類為「獲證明屬實」。該名警員將接受「紀律覆檢」。

### 監警會的觀察

監警會同意投訴警察課的調查結果。然而，監警會十分關注類似的投訴，儘管警隊現時已有措施提醒警務人員避免作出違規或抵觸警隊價值觀的行為。監警會將與投訴警察課跟進相關事項，提升警務人員的專業操守和紀律。

The Complainant later lodged a complaint that the Police Constable had inappropriately collected her personal data during execution of his duty and contacted her by phone and WhatsApp for private purpose. [Allegation: Misconduct]

### CAPO's investigation

After investigation, CAPO was of the view that the independent evidence including CCTV footage, telephone recordings and WhatsApp messages is sufficient to support the allegation. CAPO also noticed that the Police Constable had tried to cover up the matter by giving false statements during the investigation and tearing a few pages from his police notebook. Therefore, CAPO classified the allegation as "Substantiated". The Police Constable will be subjected to a "Disciplinary Review" against his blatant misconduct.

### IPCC's observation

IPCC agreed with CAPO's findings in this case. However, IPCC is concerned that there have been complaints of similar nature despite the current measures to deter police officers from aberrant behavior or conduct which are incompatible with the Police's values. IPCC will follow up the issue with CAPO and continue to explore enhancement of the professionalism and discipline of the police officers.

### 個案三：一宗「投訴撤回」的個案經監警會審核後重新分類為「虛假不確」

#### Case 3 : A “Withdrawn” case was reclassified as “False” after the examination by the IPCC



投訴人因盜竊電單車被警方拘捕後，投訴指控遭警務人員毆打。

(照片來源：星島日報)

*The complainant made an allegation of “Assault” against the police officers after being arrested for theft of motorcycles.*

*(Photo Credit: The Sing Tao Daily)*

### 背景

數名軍裝警員在街上巡邏時，發現投訴人神色可疑地站在一輛電單車旁欲插匙開車，遂上前截停他查問。投訴人當即表示自己並非車主。警員向電台查詢後得知該輛電單車為失車，而車上當時掛著的車牌號碼和已過期的行車證並不屬於該電單車，而是登記於投訴人名下的。警員於是「盜竊」及「偽造文件」罪拘捕投訴人，並將他帶返警署錄取警誡供詞。在警誡下，投訴人表示不知為何登記於他名下的車牌號碼和行車證會掛在失車上。

### Background

Several uniformed police officers patrolling the street found the Complainant standing next to a motorcycle suspiciously and was about to start its engine. The officers stopped him for enquiry but the Complainant denied being the owner of the motorcycle. The officers then enquired the console and learnt that the motorcycle was reported missing. The displayed vehicle registration plate and vehicle licence, which was registered under the name of the Complainant had already expired and did not belong to the said motorcycle. As a result, the officers arrested the Complainant for “Theft” and “Forgery” and took him back to a police station for an interview under caution. Under caution, the Complainant claimed that he had no idea why his vehicle registration plate and vehicle licence were hanging on that motorcycle.



經調查後，警方起訴投訴人上述兩項控罪，並將他還押候審。在拘留期間，投訴人向懲教署投訴警務人員在警署為他錄取警誡供詞時強迫他喝下混有煙灰的水及毆打他。懲教署於是將他的投訴轉交投訴警察課處理。

審訊期間，投訴人否認控罪，並指警誡供詞並非在其自願情況下作出，故不應接納為證供。他在庭上再次提出投訴警方，兩項指控分別為：一名警務人員（被投訴人）在為他錄取警誡供詞時強迫他喝下混有煙灰的水【指控一：毆打】；以及投訴人在警署接見室內遭被投訴人，以及另外數名警務人員蒙上頭套及鎖上手扣毆打【指控二：毆打】。被投訴人因此被傳召出庭作供，對於投訴人的所有指控他一概否認。

在裁決時，法庭指被投訴人言行合理，並無不當，是誠實可靠的證人。相反，投訴人的供詞前後不一，證詞毫不合理，因此不接納其供詞，並且認為投訴人針對被投訴人及其他數名警務人員的指控屬捏造，投訴人最終被判罪成及監禁。

### 投訴警察課的調查

審訊結束後，投訴警察課會見投訴人以了解更多細節，但投訴人表示已在法庭上清楚陳述所有投訴，沒有任何補充。投訴人更在該次會面中表示撤回投訴。此外，投訴警察課檢視投訴人的驗傷報告，確認他當時並無明顯傷痕。

就此，投訴警察課將兩項指控分類為「投訴撤回」。

After investigation, the Police charged the Complainant with the aforementioned offences and remanded him into custody. When remanded in custody, the Complainant complained to the Correctional Services Department (CSD) that he had been forced to drink water containing cigarette ash and assaulted by police officers during the cautioned interview at the police station. The CSD then referred his complaint to CAPO.

During the trial, the Complainant pleaded not guilty and challenged the admissibility of his cautioned statement which was allegedly not voluntarily given. The Complainant raised two allegations against the Police at the trial, namely: a police officer (The Complainee) had forced him to drink water containing cigarette ash during the cautioned interview [Allegation 1: Assault]; and the Complainee, together with several other police officers had hooded, handcuffed and assaulted him inside an interview room [Allegation 2: Assault]. The Complainee testified in the trial and denied all accusations raised by the Complainant.

In the verdict, the Court commented that the Complainee was a reliable witness as his testimony and action in the incident were deemed reasonable and appropriate. On the other hand, the Complainant's version was inconsistent that he spoke arbitrarily without logic. The Court therefore did not accept the Complainant's evidence and ruled that he had fabricated the allegations against the Complainee and several other police officers. The Complainant eventually was convicted and sentenced to imprisonment.

### CAPO's investigation

After the conclusion of the court case, CAPO interviewed the Complainant for more details of his complaint. The Complainant, however, refused to supplement any information and stated that he had already aired his complaint in the trial. The Complainant even opted to withdraw his complaint with CAPO. Notwithstanding that, CAPO examined the medical report of the Complainant and confirmed that there was no visible external injury.

Under such circumstances, CAPO classified the two allegations as "Withdrawn".

### 監警會的觀察

監警會認為投訴人基於抗辯需要而作出投訴，企圖令案件產生疑點。雖然投訴人最終撤回投訴，但監警會認為根據法庭的評論及裁決，足以證明投訴人惡意作出不實指控，故應將兩項指控重新分類為「虛假不確」，以還被投訴人公允。在此個案中，投訴人因濫用投訴程序而被嚴正警告。

就本投訴個案，會方特別提出兩個值得注意的地方。第一，即使投訴人選擇撤回投訴，其個案不一定列作「投訴撤回」。監警會會審閱所得證據，決定是否須要進行全面調查，並根據所得資料，考慮任何一項指控的真確性。

第二，監警會希望藉此個案提醒公眾，投訴人在行使投訴權利的同時，亦有責任提供真實的資料，確保各方在現行的投訴警察制度得到公平公正的對待。

### IPCC's observation

The IPCC considers that the purpose of lodging the instant complaint by the Complainant was for his line of defence at court with a view to creating doubts to the charges against him. Although the Complainant opted to withdraw his complaint, the Court's comment and ruling served as a sufficient and reliable evidence to indicate that the allegations made by the Complainant were untrue with ill intention. As such, both allegations should be reclassified as "False" and redressed an injustice to the Complainees. In this case, the Complainant was sternly warned for abusing the complaint procedures.

There are two noteworthy points in this complaint case. Firstly, where Complainants have withdrawn their complaints, the withdrawals do not necessarily result in the cases being classified as "Withdrawn". IPCC will examine the available evidence to ascertain whether a full investigation is warranted despite the withdrawal and whether any of the allegations can be proved or disproved on the basis of the information available.

Secondly, the IPCC would like to remind the public that it is the responsibility of the Complainants to provide authentic and credible information while exercising the right to complain to ensure that all parties involved receive fair and impartial treatment under the prevailing police complaint system.