

**Bills Committee on
Independent Police Complaints Council Bill**

**Response to issues raised at the Bills Committee meeting
held on 6 November 2007 (1)**

Purpose

This note provides information in response to a number of issues raised by the Bills Committee at its meeting held on 6 November 2007.

**Workload of the Independent Police Complaints Council (IPCC)
members**

To provide information on how serious reportable complaints are defined; the number of serious reportable complaints and non-serious reportable complaints examined by the IPCC in 2006, and among which the number of complaints handled by circulation of paper and by meetings; the time spent by IPCC members on examining complaints and meetings

2. On receipt of the regular updates from the Complaints Against Police Office (CAPO) on complaint cases received, the Serious Complaints Committee under the IPCC may identify reportable complaints involving allegations of assaults resulting in death or serious injuries, or involving wide public interest as serious complaints (hereinafter referred to as “more serious complaints”) for close monitoring. The Committee requires CAPO to provide monthly progress reports on the cases so identified, and may seek clarifications or raise questions on the progress reports while the investigation of the cases is still being conducted.

3. Meanwhile, having regard to the longer processing time involved on the part of the IPCC Secretariat due to their complex nature, the IPCC Secretariat codifies reportable complaints involving the following types of allegations as “serious complaints” -

- (a) criminal offences committed by members of the police force;
- (b) assault by members of the police force, in particular the assault had occasioned in actual bodily harm or injuries of the complainant;
- (c) fabrication of evidence by members of the police force;
- (d) threat by members of the police force, in particular when the complainants were allegedly expressly/implicitly harassed to admit an offence;
- (e) abusive/illegal exercise of police powers by members of the police force, in particular when the complainants' personal freedom, movement, privacy and basic human rights were in jeopardy, e.g. unnecessary/unwarranted handcuffing, arrest, detention or use of official position for a private purpose. However, if a member of the police force is complained for unwarranted/unnecessary stop-and-search/stop-and-question actions, road block check or inconvenience arising from his action or police operation, such types of allegations would normally not be classified as serious; and
- (f) when the aggregate total of the allegations in a single complaint case exceeds five or more counts, all of which do not fall under (a) to (e) above, either raised by the complainant or registered in the course of police investigation.

4. The IPCC Secretariat, before submitting the investigation reports on the reportable complaints received from CAPO to IPCC members for examination, first scrutinizes the investigation reports in detail. Where necessary, the IPCC Secretariat requests CAPO to clarify any facts or discrepancies, address questions raised by the Secretariat or provide additional information. As mentioned in the paper (LC Paper No. CB(2)243/07-08(01)) submitted to the Bills Committee meeting held on 6 November 2007, IPCC members are divided into three sub-groups to share out the workload of examining the investigation reports on serious

complaints and non-serious complaints. Each sub-group comprises a vice-chairman and four to five members. Each vice-chairman examines all complaints allotted to his sub-group, while the members study all serious complaints allotted to their respective sub-groups and share out the non-serious complaints so allotted evenly. The IPCC Secretariat circulates the investigation reports it has scrutinized, together with any clarification/supplementary information received from CAPO, to the vice-chairmen and members of the relevant sub-group for examination. After examination by the sub-groups, the IPCC Secretariat submits all the investigation reports, together with any comments from the sub-groups on the cases, to the IPCC chairman for further examination. The IPCC chairman endorses the reports either in writing after scrutiny without discussion or after further discussion with the IPCC Secretary and Senior Government Counsel at case meetings held from time to time.

5. For the more serious complaints that are handled by the Serious Complaints Committee, the IPCC Secretariat circulates the scrutinized investigation reports, together with any clarification/supplementary information received from CAPO, to members of the Serious Complaints Committee for examination and concurrently to all IPCC members for monitoring. After examination by the Serious Complaints Committee, the IPCC Secretariat submits the investigation reports, together with any comments from the Committee or IPCC members on the cases, to the IPCC chairman for further examination and endorsement.

6. If the IPCC chairman, the sub-groups or the Serious Complaints Committee consider it necessary for the investigation report on a particular complaint to be further discussed by the full IPCC, it will be discussed at the IPCC's bi-monthly in-house meetings. Such cases may be further discussed at the bi-monthly joint IPCC/CAPO meetings as necessary.

7. In 2006, the IPCC endorsed 2 114 investigation reports on reportable complaints (among which 1 828 reports were submitted by CAPO in the same year while 286 were carried forward from the previous years), comprising 569 serious complaints and more serious complaints and 1 545 non-serious complaints. Among the 1 545 non-serious

complaints, 670 were “withdrawn”^{Note 1} cases and 509 were “informal resolution”^{Note 2} cases. These two types of cases are endorsed by the IPCC Secretary under delegated authority from the IPCC. The IPCC Secretariat submits a bi-monthly list of the endorsed “informal resolution” cases to the IPCC for monitoring. The IPCC may raise questions and observations on these cases, and the IPCC Secretariat will take follow up actions accordingly. In 2006, 12 complaints were discussed at the IPCC’s bi-monthly in-house meetings, among which 7 were further discussed at the bi-monthly joint IPCC/CAPO meetings. Apart from the endorsed cases, there were also other cases at various stages of processing by the IPCC as at end 2006. As the IPCC had not completed their examination, they were carried forward to 2007.

8. On average, IPCC members spend about 18 hours a year on the bi-monthly meetings. The actual time spent on studying the complaints depends on the complexity of the cases, and varies among individual members. The IPCC chairman spends additional time on the case meetings with the IPCC Secretary and Senior Government Counsel, and the actual time spent depends on the complexity of the cases.

The IPCC Secretariat and CAPO

To provide information on the duties of different officers in the IPCC Secretariat and CAPO

9. The organization chart of the IPCC Secretariat is at Annex A. The IPCC Secretariat examines all complaint investigation reports submitted by CAPO in detail to ensure that the complaints are investigated in a thorough and impartial manner, before submitting the reports to IPCC members for consideration. Under the supervision of the IPCC Secretary, the Deputy Secretary and the Senior Government

Note 1 “Withdrawn” cases are cases where the complainants do not wish to pursue the complaints made.

Note 2 “Informal resolution” cases are cases where the Police resolve the complaints with the complainants through conciliation without requiring a full investigation. “Informal resolution” does not apply if there is a significant conflict between the testimony of the complainant and that of the complaine; the complainant does not agree to its use; circumstances indicate that if the complaint is fully investigated and substantiated, criminal or disciplinary charges will ensue; or the complaint refers to a refusal or reluctance to grant bail.

Counsel, three teams, each comprising 1 Senior Assistant Secretary (SAS) and 1 Assistant Secretary (AS), are responsible for processing complaint investigation reports received from CAPO, seeking clarification or additional information from CAPO and raising questions with CAPO as appropriate. The investigation reports are evenly distributed among the three teams for processing. A table showing the three teams' progress in processing the investigation reports received in 2006 from CAPO as at end 2006 is at Annex B. A fourth team, comprising 1 SAS, 3 ASes and 10 other clerical staff, is responsible for general administration, research and other support services. A special team, comprising 2 part-time Senior Managers (Special Duty) and 1 Executive Assistant (Special Duty) employed on non-civil service contract (NCSC) terms, is responsible for handling the aftermath of the data leakage incident reported in March 2006. In addition, 1 Senior Public Relations Officer and 1 Assistant Information Technology Officer are employed on NCSC terms to handle publicity and public relations matters, and information technology-related issues respectively.

10. The organization chart of CAPO is at Annex C. Under the supervision of the Senior Superintendent, three CAPO sub-offices with ten investigation teams are responsible for handling complaints involving police formations in Kowloon, on Hong Kong Island and in the New Territories respectively. Each sub-office is headed by a Superintendent (SP) and comprises Chief Inspectors (CPs), Inspectors (IPs) and/or Senior Inspectors (SIPs), Station Sergeants (SSGTs) and Sergeants (SGTs), whose duties cover investigation of complaints cases allotted to them (including taking statements, conducting scene visits and processing case exhibits), monitoring complaints investigated by the respective police formations and ensuring that they are handled thoroughly and impartially, compiling investigation reports for submission to the IPCC, responding to questions and requests for supplementary information raised by the IPCC and the IPCC Secretariat in coordination with the police formations concerned, preparing replies to complainants and complainees, and conducting briefings and seminars on the police complaint system and complaint prevention for different police formations. A fourth headquarters sub-office, headed by an SP and comprising CIP, SIPs, SSGTs, SGTs, Constable, and executive, clerical, secretarial and other supporting staff, is responsible for providing administration support to

CAPO, translation services, compiling and maintaining statistics, processing all investigation reports and files for submission to the IPCC, maintenance of records, operating the CAPO Reporting Centre, operating the complaint hotline, and receiving complaints from various sources and allocating them to the investigation teams. The set-up is necessitated by the nature of the CAPO's primary duty to effectively monitor the investigation of complaints by different police formations so as to ensure that the investigation is conducted in a just and proper manner, and to conduct investigation itself as the circumstances require.

Observers

To provide information on the number of interviews and collection of evidence conducted by the Police in respect of reportable complaints in 2006, and the number of interviews and collection of evidence observed by IPCC observers

11. In 2006, CAPO notified the IPCC that 1 188 interviews and collection of evidence in respect of reportable complaints would be conducted. In the same year, IPCC observers (including IPCC members and lay observers) made 317 observations.

Honorarium

To provide information on the computation of honorarium for IPCC members and observers

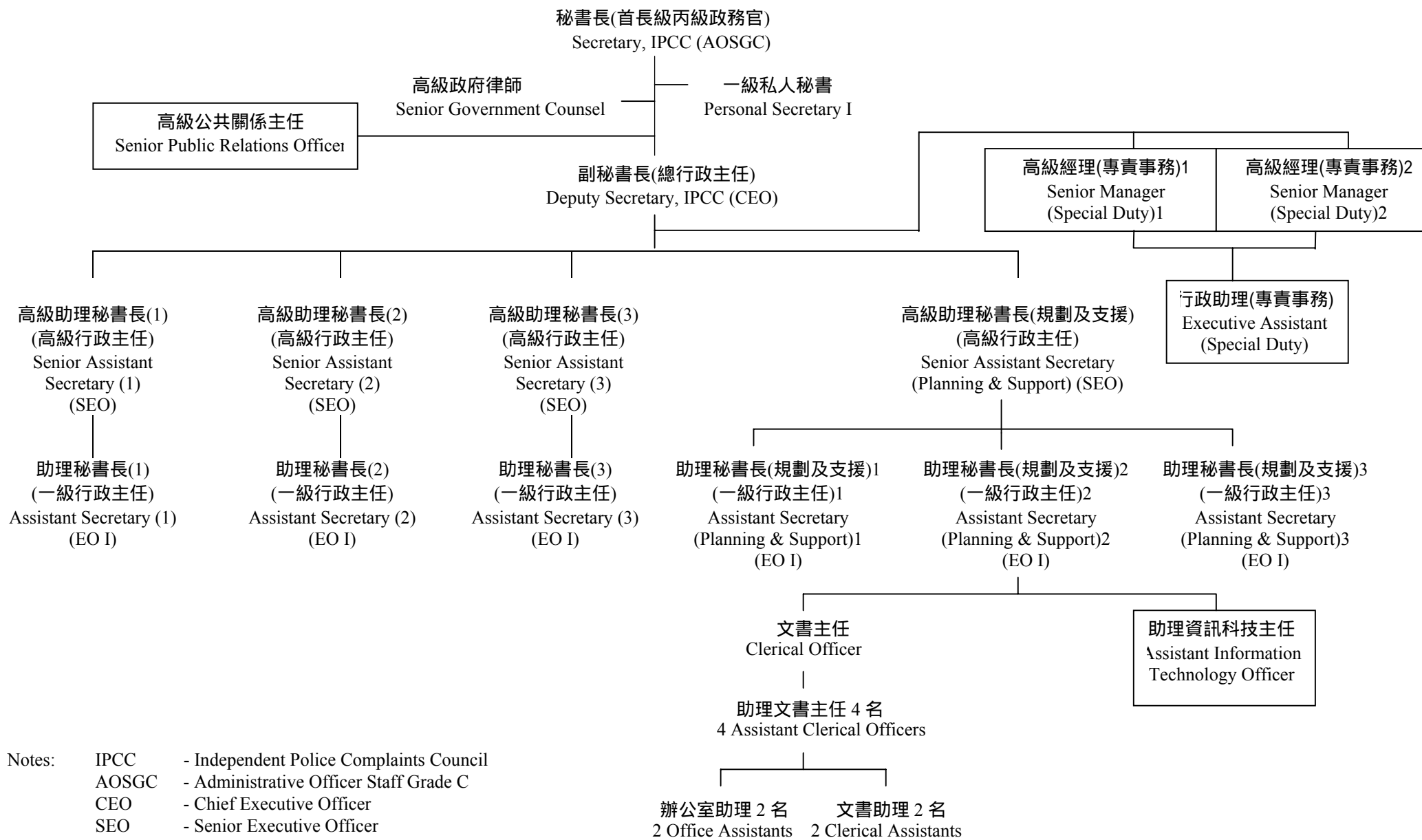
12. The Finance Committee of the Legislative Council has delegated authority to the Secretary for Financial Services and the Treasury to approve remuneration payable to non-official members serving on boards and committees set up by the Government subject to a ceiling. The ceiling, as approved by the Finance Committee on 5 March 1993, was \$570 per member per attendance with effect from 1 April 1993. It was subsequently revised, from time to time, with reference to the movement of the Consumer Price Index (C). The ceiling, with effect from 1 August 2007, is \$720 per member per attendance. The rates of

honorarium for IPCC chairman, vice-chairmen, members and lay observers are computed based on this ceiling, taking into account the estimated number of meetings, interviews and observations conducted. Details are shown at Annex D.

Security Bureau
November 2007

警監會秘書處組織圖

Organization Chart of the IPCC Secretariat



Notes: IPCC - Independent Police Complaints Council
 AOSGC - Administrative Officer Staff Grade C
 CEO - Chief Executive Officer
 SEO - Senior Executive Officer
 EO I - Executive Officer I
 Staff in boxes are hired on non-civil service contract terms
 框格內為非正式編制的合約員工

**Position as at 31.12.2006 on the Processing of
CAPO Investigation Reports Received in 2006[#]**

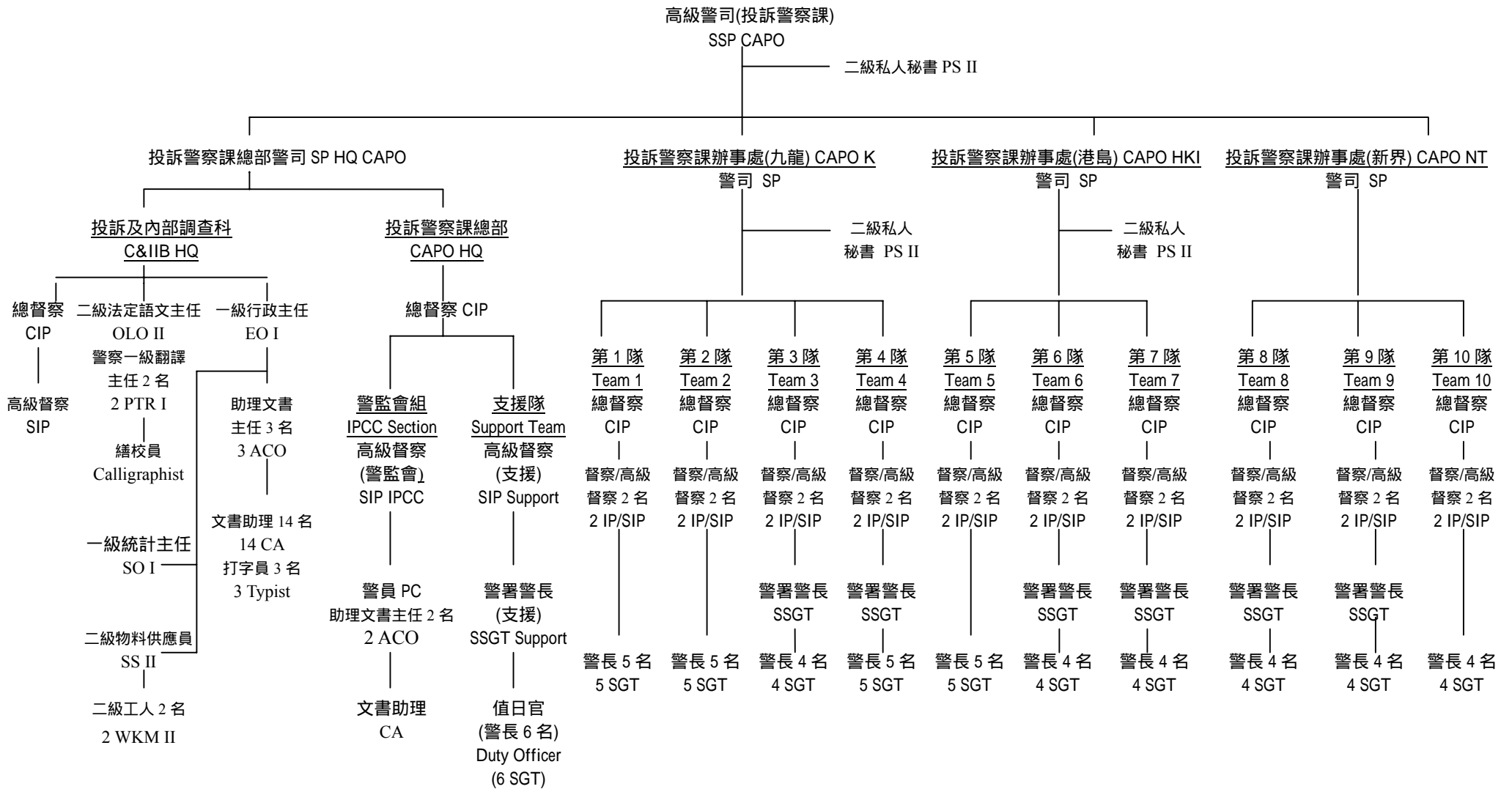
<u>Vetting Team</u>	<u>Team 1</u>	<u>Team 2</u>	<u>Team 3</u>	<u>Total</u>
(a) No. of cases endorsed by the IPCC	518	653	657	1,828*
(b) No. of cases returned to CAPO for comments	18	10	15	43
(c) No. of examined cases under circulation / in the process of being circulated to IPCC Members	27	39	22	88
(d) No. of cases being / to be examined	193	132	153	478
Total no. of cases received from CAPO	756	834	847	2,437

[#] The above figures do not include investigation reports which were received by the IPCC Secretariat before 2006 and the processing of which was carried over to 2006.

* The figure of 1,828 represents those investigation reports received in 2006 and endorsed within the same year.

投訴警察課組織圖

Organization Chart of the Complaints Against Police Office (CAPO)



Notes :	SSP	–	Senior Superintendent
	SP	–	Superintendent
	CIP	–	Chief Inspector
	IP/SIP	–	Inspector/Senior Inspector
	SSGT	–	Station Sergeant
	SGT	–	Sergeant
	PC	–	Constable
	EO I	–	Executive Officer I
	OLO II	–	Official Languages Officer II
	PTR I	–	Police Translator I
	SO I	–	Statistical Officer I
	ACO	–	Assistant Clerical Officer
	CA	–	Clerical Assistant
	PS II	–	Personal Secretary II
	SS II	–	Supplies Supervisor II
	WKM II	–	Workman II

Rates of honorarium payable to IPCC members and IPCC lay observers

(a) Rate of honorarium for IPCC chairman, vice-chairmen and members
(with effect from 1 August 2007)

	<u>Chairman</u>	<u>Vice-chairman</u>	<u>Member</u>
(a) estimated number of council meetings in a year (\$720 per attendance)	15	18	21
(b) estimated number of working meetings with the IPCC Secretariat in a year (\$540 per attendance (i.e. \$750 x 0.75))	52	20	10
(c) estimated number of attendances for the Observers Scheme in a year (360 per attendance (i.e. \$720 x 0.5))	2	2	2
(d) estimated number of attendances for the Interviewing Witnesses Scheme in a year	1	1	1
(e) Honorarium for a year \$720 x (a) + \$720 x 0.75 x (b) + \$720 x 0.5 x [(c) + (d)] ^{Note}	\$39,960	\$24,840	\$21,600
(f) Monthly honorarium (e)/12 (rounded to the nearest \$10)	\$3,330	\$2,070	\$1,800

(b) Rate of Honorarium for the IPCC lay observers
(with effect from 1 August 2007)

The rate per visit is one half of the rate of honorarium for the IPCC Members performing Observers duties, i.e. **\$180** per visit (\$720 x 0.5 x 0.5).

Note: The percentage of the ceiling rate is based on the level of complexity of individual types of meetings, i.e. 100% for council meetings, 75% for working meetings and 50% for attendances for the Observers Scheme and Interviewing Witnesses Scheme.