

十五、洪仲丘案，十八名軍士官遭起訴

Eighteen indicted in conscript's death

Key words: *conscript, smart-phone, exclusive jurisdiction, confinement, negligence, discharge, detention center*

洪仲丘事件，即中華民國國防部之「陸軍六軍團湖口裝甲542旅洪仲丘下士禁閉室悔過期間死亡案」，是指在2013年7月間，陸軍義務役（conscript/compulsory）下士洪仲丘服役期間的死亡案件。

洪仲丘於2013年6月底退伍前夕，因攜帶具備拍照功能之行動電話（camera-equipped cell-phone）和MP3隨身碟進入軍營，被指控違反軍隊資訊安全保密規定。洪仲丘懲處案經士官獎懲評議委員會（士評會，Sergeant disciplinary board of regents），函送桃園縣楊梅市機步269旅高山頂營區，實施禁閉室（disciplinary confinement）「悔過」（Repentance）處分。7月3日在室外溫度達紅旗警戒，洪員體重98公斤、BMI值過高下，禁閉單位仍執行操練，造成洪員中暑（heatstroke）、熱衰竭（heat exhaustion），引發彌散性血管內凝血（Disseminated intravascular coagulation）而死。

此案涉及軍中人權，及軍事檢察署（Military Prosecutors' Office）是否具專屬管轄權（exclusive jurisdiction）等議題，引起台灣社會高度關注，期間兩位國防部長接連下台，並促成「公民1985行動聯盟」（1985 civil action coalition）街頭上佔有數十萬人的兩次抗議活動，要求軍隊社會化，最後促成立法院將「軍審法」（Military Justice Act）於三日內火速修法，在承平（非經總統宣戰）時期，將軍人審判從軍法體系全面移至民間司法單位。（from: <http://zh.wikipedia.org/>）

本事件發生之前，國防部也曾被爆料出江國慶案（又稱江國慶遭冤殺案、江國慶冤殺案、江國慶命案），當時亦喧騰一時。惟不同於洪案，江案是發生在台灣的一樁刑求逼供之司法冤案，起因為1996年9月12日位處臺北市大安區的空軍作戰司令部營區內五歲謝姓女童遭到姦殺身亡的案件，軍方的專案偵辦小組速偵速審，將認定涉案的江國慶於1997年8月13日執行槍決，被槍決時年僅21歲。江案為台灣自二二八事件及白色恐怖時期之後，首宗確認的冤獄錯殺案。而江、洪兩案皆被視為台灣的重大司法人權事件之指標。

BLAME: Hung Chung-chiu's family said they do not blame the non-commissioned¹ officers so much as the military officials who should bear the major responsibility.

譴責：洪仲丘的家屬說，他們不責怪士官，反而應揪出須承擔主要責任的軍官。

Chief military prosecutor Major General Tsao Chin-shen speaks during a press conference in Taipei yesterday.

軍事檢察總長少將曹金生昨天在台北的新聞發布會上。

Military prosecutors yesterday indicted 18 senior officers and non-commissioned officers over the death of army corporal² Hung Chung-chiu on July 4.

軍事檢察官因陸軍下士洪仲丘7月4日的死亡，昨天起訴十八名資深軍官和士官。

Staff Sergeant³ Chen Yi-hsun of the 269th Brigade, who oversaw Hung's punishment

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1. non-commissioned officers：士官、軍士、非委任級人員；non-commissioned 無委任的。補充：conscript (= compulsory stint in the military) (n.) 應徵士兵；(v.) 徵召；(a.) 被徵召的。例句：Even many young students were conscripted into the army. 甚至很多年輕的學生也被徵召到陸軍中服兵役。They proposed to conscript both capital and labor. 他們打算把資金和勞力一起徵用。The troops are thought to include senior non-commissioned officers who had been living and training with local police for two weeks. 新部隊被傳將納入二周以來一直和當地員警一起生活和訓練的高級士官。
 2. corporal：(n.) (a.) 人(肉)體的；(n.) (軍事) (美國陸軍及海軍陸戰隊) 下士、班長。補充：corporal punishment 體罰、肉刑。比較：capital punishment 死刑。例句：As punishment, the corporal was demoted to private. 作為懲罰，這下士被降為士兵。
 3. Staff Sergeant：(美) 參謀軍士，(英) 陸軍上士；sergeant (n.) = sergeant at arms 軍士、員警小隊長、海軍陸戰隊中士、高等律師。補充：(英國英語) (皇家法庭的) 特權律師 (亦作 sergeant at law, serjeant)；police sergeant 警佐。例句：Mogan has told investigators that the murders took place between January and May last year and were instigated by an officer in his unit, Staff Sergeant Calvin Gibbs. 摩根告訴調查人員，他的同事，上士凱文吉布斯唆使了發生在去年一月到五月間的謀殺。

while in confinement⁴, faces the heaviest charge for allegedly abusing a subordinate⁵ to death by forcing him to do excessive exercises. He could face life imprisonment if convicted⁶.

負責監管禁閉室中洪員懲罰，於第269旅服役的上士陳毅勳，被指稱涉嫌迫使洪員做過多的操演虐待下屬致死將面臨著最重的指控。如果罪名成立，他可能

4. confinement：限制、被拘禁、分娩。補充：solitary confinement 單獨拘禁（等於 solitary）；be held in disciplinary confinement 被關禁閉；confine (v.) 監禁、關押。例句：He was confined to prison for ten years. 他在獄中被監禁了十年。例句：They have profited off of the torture, confinement, and cruel treatment of countless animals, and actively hide these practices. 他們通過折磨、限制和殘酷對待數不盡的動物來獲利，並設法隱匿他們的行徑。
5. subordinate：(n.) 下屬、從屬物；(a.) 次要的、附屬的；(v.) 使列於次要地位、使成為次要、使服從（常與 to 連用）。補充：to subordinate the situation 控制局勢。例句：Order the subordinate (troops) to act immediately! 命令所屬（部隊）立即行動！In the army, lieutenants are subordinate to captains. 在陸軍中，中尉是上尉的下級。
6. convicted：(v.) 證明……有罪、宣判……有罪、定罪（convict 的過去分詞）、使認罪、使服罪；(n.) 罪（囚）犯；服刑的人；補充：to convict someone of his offence 使某人認識所犯的罪行；conviction (n.) 確信、定罪、宣告有罪；summary conviction (律) 即席判決。例句：He was convicted of murder. 他被判為殺人罪。They have no previous convictions. 他們沒有前科。
比較：
一 accuse：(v.) 表較直接、尖銳地指控對方不很大的過錯或一般罪刑。補充：字首 ac (向) + 字根 cus (訟案) + e (v.)；反義詞：defend。例句：They accused him of dishonesty. 他們指控他不誠實。Cinies is accused of having sex transactions with Bo Xi Lai. 章子怡 (Cinies) 被控與薄熙來發生性交易。
二 charge：(v.) 表示對較嚴重的罪刑或過失的指控，為正式法律用語 (↔ discharge)。He was charged with jacking up prices and was fined. 他被指控抬高物價而需罰款。用法：charge with/that 子句。baseless charge 毫無根據控告；false charge 誣告；fabricated charge 捏造罪名 (= concoct/cook up a charge)；bring/level/make a charge 提出控告；dismiss/throw/trumped-up out a charge 駁回控告；withdraw/drop a charge 撤銷控告；refute/repudiate a charge 反駁控告。
三 impeach：(v.) (n.) 控告 (+ for/of/with)；彈劾 (+ for/of/with)：impeach sb. for taking bribes 控告某人受賄。



面臨終身監禁。

Chief military prosecutor Major General Tsao Chin-sheng said there was no evidence that Chen was directed by his superiors to abuse Hung, who died of heatstroke due to the punishing exercises he was forced to do in hot weather while being held in disciplinary confinement for bringing a camera-equipped cell-phone onto his base on June 28.

軍事檢察總長少將曹金生說，現在還沒有證據證明在6月28日洪員違規攜帶具攝影功能手機到基地，陳毅勳因他的上司指使虐待洪員，造成他被迫在炎熱的天氣操演而中暑身死。

Major General Shen Wei-chih, the former commander of Hung's brigade, was the highest-ranking military official indicted⁷ in the case. He was charged with failing to check Hung's physical and mental condition and for heedlessly⁸ approving his disciplinary confinement.

少將旅長沈威志，即洪員之前指揮官，乃是該案被起訴的最層級軍官。他被指控未能檢查洪員的身體和精神狀況前提下，草率批准了他的禁閉處分。

Shen, former deputy commander of the 542nd Brigade Colonel Ho Chiang-chung, company commander Major Hsu Shin-cheng, vice company director Captain Liu Yen-chun, First Sergeant Chen Yi-jen and Staff Sergeant Fan Tso-hsien were charged with “collectively imposing illegal punishment on a subordinate and offenses against personal liberty”, the indictment read, with prosecutors asking the military court to

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7. indict: (v.) 控告、起訴、指控、對……起訴；(法)揭發。補充：字首 in (反對) + dict (說)：to indict somebody for murder 控告某人犯有謀殺罪；to be indicted on a charge of theft 因盜竊罪被起訴；indictment (n.) 起訴書。常用片語：be accused of = be charged with = indict sb for (crime) 指控；to be indicted on charge of (crime) 起訴 (= sue for)。例句：The ICC (International Criminal Court) must decide whether to indict the suspects. 國際刑事法庭必須決定是否起訴這些嫌犯。
 8. heedlessly: (adv.) 掉以輕心地、不加注意地。補充：heedless (a.) 不注意的、心不在焉的、掉以輕心的、缺乏考慮的 (常與 of 連用)。例句：The border guards smile effusively at the foreigners who have come to spend money heedlessly on their shores. 邊境守衛們對那些從大洋彼岸來此花大錢的外國遊客報以熱情的微笑。

give them heavy sentences⁹.

前副旅長542旅之上校何江忠，該連連長徐信正，副連長劉延俊，士官長陳以人和上士范佐憲被指控犯有「共同實施非法處罰下屬和違反個人人身自由」。該起訴書中表明，要求軍事法院檢察官對他們犯行予以重判。

Staff Sergeant Hsia Chih-ming and Sergeant Lo Chi-yuan — the director and vice director of the 269th Brigade's detention center respectively — Sergeant Lo Chi-yuan, Corporal Lee Nien-tsu and seven other soldiers serving at the center were charged with negligence¹⁰ for failing to take appropriate measures while Hung was in solitary confinement to prevent his death, the indictment said.

陸軍上士蕭志明和中士羅濟元分別為第269旅拘留中心（禁閉室）室長及副室長，中士羅濟元，下士李念祖和其他七名士兵被指控在將洪員關禁閉時因疏忽而未能採取適當措施防止其死亡，起訴書說。

First Lieutenant Kao Yu-lung was charged with transferring Hung to solitary confinement without authorization.

中尉郭毓龍被控未經授權前提下轉介洪員入禁閉。

According to the indictment, on June 24, Liu, Hsu and Fan discussed how to discipline Hung after finding that he had forged¹¹ a physical training grade on May 6.

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9. sentence : (n.) (v.) 宣判、科刑。補充：to be sentenced to death 被判處死刑；to be sentenced by the heaven 遭天災。例句：The sentence of the court was quashed on appeal. 經過上訴，法院的判決被宣布無效。
10. negligence : (n.) (法律) 過失的、疏忽、玩忽行為。補充：gross negligence 重大過失、嚴重過失、顯著的疏忽；negligence of duty 可轉讓票據、疏忽職守，如：The court charged him with negligence of duty. 法庭控告他怠忽職守。（⇔intention）(n.)；do sth. by intention 故意做某事故意犯；intentional offender 故意犯；calculated crime/intentional offense 故意犯罪。例句：The traffic accident was allegedly due to negligence. 這次車禍據說是由於疏忽造成的。
11. forge : (v.) 仿造、偽造（尤指支票等）、捏造、編造（謊言、故事等）。補充：to forge a check 偽造支票；forgery (n.) 偽造、偽造罪、偽造物（= fabrication, falsification）。例句：He not only interpreted the rules on visas loosely, enabling Jews to escape to Britain and Palestine, but he also helped to forge passports. 他不僅從寬解釋有關簽證的法規，使猶太人可以逃往英國和巴勒斯坦，而且還幫助猶太人偽造護照。

It said that when they called Hung to discuss the forgery, Hung said he did not want to leave a bad mark on his record as he planned to take the civil service examinations in the future.

據起訴書指稱，在6月24日當天，劉、徐、范討論如何管教洪員後，發現他在5月6日偽造體能訓練成績。當他們召洪員來討論該偽造紀錄時，洪員表示不想在他的紀錄上留下污點，因為他計劃在未來參加公務員考試。

To make up for what he did, Hung said he would serve as squad leader for a week, but later skipped out on his duty, saying he was to be discharged¹² soon. The three got their revenge on Hung by putting him in confinement, the indictment said.

為了彌補洪員所為，他說他將擔任一個星期的值星班長，但後來卻說他即將退伍而逃避職責。起訴書中聲稱，上述三員把他關在禁閉室內以報復洪員。

Hung's sister, Hung Tzu-yung, yesterday said that her family was disappointed with the indictment, adding that the "motive" for the officers' actions was not clearly stated in the indictment.

洪員的姊姊，洪慈庸昨天說，她的家人對該起訴書中因沒有明確加註人員的行為「動機」而感到失望。

It was unfair that the indictment brought most sergeant-level personnel to court, she said, adding that her family did not so much blame the non-commissioned officers as the military officials who should bear the major responsibility¹³ in the case.

12. discharge : (v.) 使爆炸、開(槍)、擊發(槍、炮等)、發射(導彈等)、免……的職、撤職、解雇、開除、使退伍、(法律)釋放(被告、尤指被拘留的被告)(from)、出院。補充: to discharge a debt 還債; to be discharged from hospital 被准許出院; to discharge a contract 解除契約; to discharge a committee of inquiry 解散調查委員會。例句: In crowded places the police should not discharge their weapons. 在擁擠的地方員警不應擊發武器。The policeman discharged his gun at the fleeing terrorists. 員警朝正在逃跑的恐怖分子開槍。The court discharged its order. 法院撤銷了其命令。The soldier was honorably discharged. 這名士兵光榮退伍了。

13. bear/take responsibility : (phr.) 負起責任 (= take personal responsibility, take on the responsibility, be on the spot, be responsible for)。例句: The girl is a minor so her parents are the ones who must take responsibility. 這個女孩還是一個未成年人，所以他的父母必須負起責任來。

起訴書中僅將大多數（軍中）士官級人員告上法庭，她說，這是不公平的，並補充說她的家人並沒有怪罪這些士官多於實際上應該承擔多數責任的本案軍官。

Wellington Koo, the family's lawyer, said the indictment punished mostly personnel serving in the detention center¹⁴, but did not charge higher military officials who authorized Hung's punishment.

顧立雄，洪家的律師表示，起訴書懲罰的大多是在禁閉室裡的工作人員，但並沒有向授權懲罰洪員的更高階軍官來起訴。

Lu Meng-ying, the discharged medical officer involved in the case was not on the list of military officers indicted over Hung's death but will undergo an evaluation to determine whether he was guilty of medical negligence, Military High Court Chief Prosecutor Shih Sheng-te said.

牽涉本案獲不起訴處分的醫療人員呂孟穎並沒有列在洪員死亡後軍官起訴名單之內，但軍檢署仍會進行評估，以確定呂員是否有醫療上疏失。高等軍事法院檢察署檢察長史勝德說。

【註：一英文原文出處：<http://www.taipeitimes.com/News/front/archives/2013/08/01/2003568647>。

二洪案軍檢起訴書爭議處：

- (一)7月4日軍檢來檢驗大體時，所開的死亡證明記載死因「意外死」，並告知家屬要不要解剖看家屬意見。
- (二)針對軍檢強調范佐憲、陳以人沒有買飲料賄絡813醫院護理人員，讓洪仲丘體檢報告可以當天拿到。對此洪仲丘姊姊對記者公布錄音檔，輔導長吳翼竹回答洪仲丘堂哥詢問「陳以人告知、要加快體檢表出來，有買飲料」。曹金生隨即傳喚吳翼竹到案說明。
- (三)洪姊姊公布錄音檔後，曹金生脫口「我覺得我們被她（指洪姊姊）突襲啦！」此言一出，社會嘩然，人民質疑軍檢辦案的誠意，亦質疑軍檢包庇自家人、與受害人對立。

14. detention center: (phr.) 拘留所、(青少年罪犯的) 臨時拘留所、(青少年罪犯) 感化中心。例句: If someone misbehaves, the security staff will lock him in a detention center. 如果哪個人行為不端，安全人員會把他所在拘留中心。



起訴內容表示，洪仲丘在7月3日下午5時33分反映不適，6時20分送到醫院。臺大醫學院教授柯文哲認為，中間只經過約50分鐘，體溫卻飆升到44度，「醫學上難以解釋，...」；起訴書稱洪仲丘竄改體測報告，但未提及是哪一單位所辦之體測。此外，根據規定，若洪仲丘五月時可以參加體測，其體重最多為86公斤，而洪仲丘六月的體檢為98公斤。營養師表示，正常人難發生一個月增加13公斤的情形。陸軍裝甲542旅憲兵官蔡忠銘中尉，並未在洪仲丘送禁閉公文上蓋章。但事件後遭國防部給予記大過乙次，調往馬祖，並遭軍檢另案起訴。（from <http://zh.wikipedia.org/>）】