

## DPP Decides not to Prosecute Antony Leung

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The Director of Public Prosecutions (DPP), Mr Grenville Cross, SC, has decided not to prosecute former Financial Secretary, Mr Antony Leung, for his actions in respect of a car purchased shortly before an increase in First Registration Tax in the 2003 Budget. The DPP came to the decision after full consideration of the evidence, the law and the opinions given by two leading counsel at the private Bar, one in Hong Kong and the other in England.

Speaking at a meet-the-media session today (Dec 15), Mr Cross said that, on the totality of the evidence, a prosecution could not be justified as it could not be proved Mr Leung deliberately sought to evade tax on a car he purchased in January 2003.

He said his decision was accepted by the Secretary for Justice, Ms Elsie Leung. She had, Mr Cross said, from the early stage of the case, delegated to him the task of deciding whether or not to prosecute Mr Leung. This was done in order to avoid any possible perception of bias because of her former working relationship with Mr Leung,

Mr Cross stressed that, had the whole of the evidence afforded a reasonable prospect of conviction, it would have been in the public interest to prosecute Mr Leung.

He said both leading counsel from the private Bar, Mr John Griffiths, SC, and Mr Martin Wilson, QC, concluded that when the totality of the evidence was examined a prosecution of Mr Leung for the offence of misconduct in public office could not be justified and that a reasonable prospect of securing a conviction in this case simply did not exist.

Mr Cross added that Mr Griffiths and Mr Wilson were correct to advise that although Mr Leung should have made a declaration to the Executive Council about his recent purchase, this was not misconduct of sufficient seriousness to justify prosecution as it appeared on the evidence to be due to nothing more sinister than a desire to avoid personal embarrassment.

When all the evidence in this case was weighed, criminality could not be established to the required standard to institute a prosecution, Mr Cross said.

Mr Cross added that prosecutions in Hong Kong could only ever be instituted on the basis of sufficiency of evidence. A prosecution should never be started unless the prosecutor was satisfied that there was admissible, substantial and reliable evidence to justify placing a person upon trial.

If, once everything was considered, it was decided that a reasonable prospect of securing a conviction was absent, a suspect would not be prosecuted, Mr Cross said.

“It has never been the rule in this jurisdiction that those suspected of criminal offences must automatically be the subject of prosecution,” he added.

The following is the full text of two statements issued by the Secretary for Justice, Ms Elsie Leung, and the Director of Public Prosecutions, Mr Grenville Cross, SC, today (Dec 15) on the case concerning Mr Antony Leung.

End/Monday, December 15, 2003  
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