

Secretary for Justice on prosecution matter

Following is the transcript of remarks made by the Secretary for Justice, Mr Rimsky Yuen, SC, at a media session today (October 13):

Reporter: Can you provide an update of what happened to the alleged police assault case last year and could you tell us if political consideration play a role in this case and why does it take so long for the whole process to be taken?

Secretary for Justice: In relation to the first part of your question, the Department of Justice has given our legal advice to the Police last week. At this stage, it would not be appropriate for me to reveal the details of the legal advice. But I believe and I understand the Police would be acting upon our advice. So that's all I can say for the time being.

In relation to the second part of your question, as I was saying in Cantonese just now that there's absolutely no political consideration being taken into account when making the decisions in relation to the seven police officers, as in any other case involving the decision whether or not to prosecute.

I would like to take this opportunity to emphasise one point. I noticed from the media, whether traditional media or social media, that there have been many discussions or suggestions or even allegation that there have been political considerations in some of the decisions to prosecute made by the Department recently. I would like to take this opportunity to stress once again, as I did before, that this is not true. Every time, my colleagues in the Prosecutions Division, as well as the entire Department of Justice, make all the relevant prosecution decisions by applying the relevant threshold or standard stated in the Prosecution Code. In other words, we look at the evidence whether there is reasonable prospect of conviction, and secondly, if the first hurdle can

be overcome, whether it is in the public interest to prosecute the persons in question. So, first of all, whether there is sufficient evidence, and if the answer is yes, then we move on to look at the question of public interest. It is absolutely groundless, if I may say, to suggest that we take into account political considerations.

If I may use some of the cases as an example, not condescending into any details, in some cases as you would notice that we deliberately obtain advice from outside independent counsel. In some cases, we sought advice from independent Senior Counsel in Hong Kong. Sometimes, we sought advice from Queen's Counsel in other jurisdictions such as England. The purposes of seeking independent advice from outside counsel is to ensure the independence of the decision and I can guarantee to everyone in Hong Kong that when we sought advice from outside counsel, we just give them the evidence and the relevant materials. We would not in any way attempt to influence them as to how they should advise or the conclusion that they should reach. In fact, of all the counsel that we have sought advice from in relation to the cases which we have been handling, their integrity, their professionalism cannot be challenged. Therefore, it would be, if I may say, inappropriate to suggest that they can be influenced by political considerations. That is one mechanism which has been used for quite some time to guarantee the independence of the prosecutorial decision.

The last part, the third part of your question, is the question of time. I think it's not fair to say it has taken a long time because although the incident has taken place about a year ago, but as you would recall, the police had a lot to handle during the "occupy movement". They started to collect evidence and do the investigation after the "occupy movement" had ceased and also at the time there were many other cases which the police had to investigate. So it took a few months before the police can pass the relevant files to the Department of Justice. I can assure you that we have in fact

received a lot of files. And after that, of course, we need to look into the evidence available, we need to consider the legal issues, and in the case in question concerning the police officers that you asked, as I mentioned earlier, we saw the need to obtain advice from overseas counsel. So not just one element which would take up all the time. The combination of all these factors account for the time that was necessary to complete the investigation and the time that we need to give our advice.

(Please also refer to the Chinese portion of the transcript.)

Ends/Tuesday, October 13, 2015