

Secretary for Justice on cases involving Tsang Kin-chiu and seven police officers

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Following is the transcript of remarks made by the Secretary for Justice, Mr Rimsky Yuen, SC, on cases involving Tsang Kin-chiu and seven police officers at a media session today (October 16):

Reporter: Secretary, there're concerns that if the case for Ken Tsang is handled in the Eastern court and he is prosecuted before the case involving the seven police officers has concluded in District Court, it may affect the ruling at District Court. Can you ensure fairness for both sides? And secondly, Ken Tsang's lawyer, Michael Vidler, he accused the Department of Justice of trying to blacken Ken Tsang's name and to protect the Police Force by prosecuting them at the same time. Could you comment on it? And could you assure the public that you are actually taking these two cases very seriously?

Secretary for Justice: First of all, we take every case seriously, of course, including this case. We of course appreciate that the Hong Kong community is very concerned with this case and indeed any other criminal cases. Whether a case is big or small, we handle it with the same attitude, namely, we take each and every case seriously.

Maybe I take the second part of your question first. Any suggestion that the prosecution of Mr Tsang is to blacken his character or his reputation is absolutely groundless. We act on the evidence. Of course, because prosecution has already commenced therefore it is not appropriate for me to go into the details. But I think the statement that we issued last night already disclosed the details or the basic facts which we rely on to support the charges made against Mr Tsang, including the throwing of liquid from the bottle that he was holding. That was the basis or, in short, the summary of the factual basis we rely on in support of the prosecution against

Mr Tsang. Perhaps we can do this exercise, let's look at the whole series of events from the conduct of Mr Tsang up to the matter that he was said to have been assaulted by the seven police officers and then taken to the police station. If we were to truncate each and every part into, say, an episode, and stop there, one asks the question: is there sufficient evidence that merits the prosecution of Mr Tsang? By applying the standard and threshold laid down in the Prosecution Evidence (Code), namely, the first question, is there evidence to support or warrant a criminal charge? Our conclusion is, yes. Second question, is it in the public interest to commence prosecution? Again, having taken advice, having considered the matter very carefully, we answer this question also in the affirmative. And that's the reason why it was at the end of the day decided that criminal prosecution should be commenced against Mr Tsang.

And of course we applied that same test, the same threshold, to the evidence concerning the seven police officers. And that is the reason why, having considered the evidence, having considered the question of public interest, why we also eventually decided to prosecute the seven police officers. And then the question of course arises as was inherent in your question, as well as in the question posed by other friends of the media as well as covered by some of the comments in the media, the question is how to handle the prosecution of Mr Tsang as well as the prosecution of the seven police officers. And that is in fact one of the issues that we have given much thought to it and that is one of the questions that we consulted a local Senior Counsel as well as overseas Queen's Counsel. With their advice, we concluded that it is appropriate to have them charged on the same day and to have them arranged to go before the court also on the same day, and also the same court.

The intention is, as I said yesterday, to ensure procedural fairness so that if Mr Tsang, or his legal representatives, or if the seven police officers, or their

legal representatives, have any submissions or comments to make on the case management of either Mr Tsang's case or the case concerning the seven police officers, including which case should go first, or any other matters concerning the handling of those two cases, the legal representatives would have the opportunity to say whatever they want to say to the judge in charge of the matter.

And as to the final decision, it would not be for the Department of Justice to decide. It would be for the judge, having seized of the matter, to decide which way, or how to handle the two cases, would be most appropriate and therefore, by so doing, can also ensure fairness to all the parties involved. And by so doing, one point, perhaps if I may reiterate, is that by adopting this approach, we are trying to ensure fairness and also, at the end of the day, how those two cases will be handled would not be up to what the Department of Justice says, it would be up to the judge to decide. And that is the reason why we handle it in the way that we have.

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

Ends/Friday, October 16, 2015