

Secretary for Justice on ICAC's investigation against Mr
Tong Hin-ming Timothy

Following is the transcript of remarks made by the Secretary for Justice, Mr Rimsky Yuen, SC, at a media session this afternoon (January 27):

Reporter: Can you explain why are you not laying charges against Timothy Tong? And what do you mean by not charging him does not mean your stance from the Department of Justice?

Secretary for Justice: Put it very briefly, as was explained by the Director of Public Prosecutions (DPP) just now, I think several points are quite clear in the instant case. First of all, the Prosecutions Division of the Department of Justice is tasked to consider whether criminal prosecutions should be commenced. We are not concerned with advising on whether disciplinary or other regulatory proceedings should or should not be commenced. So in making decisions of whether criminal prosecutions should or should not be commenced, we act according to the Prosecution Code. We considered two questions. The first question is whether or not there is sufficient evidence to warrant the commencement of criminal prosecutions. As the DPP has just mentioned, on this particular occasion, we are only concerned with the first question, namely, whether there is sufficient evidence to warrant criminal prosecutions. We have not gone to the second question concerning whether criminal prosecution is or is not consistent with public interest because, for the reason which I have explained in our document which we just handed out or issued just now. In fact, both the opinions of the Queen's Counsel Mr Jonathan Caplan and also the independent assessment of the Prosecutions Division is that on the whole, there is no evidence, or no sufficient evidence rather, to justify the commencement of any criminal offence, including the criminal offence of misfeasance in public office or any other

offence which I have covered in the document. And for the detailed reasons which I have already set out in the document, mainly we look at the element of each offence and we test against each element to see whether there is any sufficiency in the evidence available.

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

Ends/Wednesday, January 27, 2016