

Department of Justice's response to queries on two court cases

In response to queries raised by some members of the public in respect of the two Court of Appeal cases respectively concerning 13 persons taking part in unlawful assembly outside the Legislative Council building (CAAR 3/2016) and concerning Joshua Wong, Nathan Law and Alex Chow (CAAR 4/2016), the Department of Justice (DoJ) gave the following response today (August 21):

In the aforesaid two applications for review of sentences concluded last week on August 15 and 17, 2017, the Court of Appeal has already taken into account the number of hours of community service respectively served by the defendants and made discounts to the ultimate sentences imposed. For instance, in CAAR 4/2016, the Court of Appeal reduced one month to each of the sentences of Joshua Wong and Nathan Law from the starting point (see para 170 of the judgment). This is consistent with the court's practice when an immediate custodial sentence is imposed upon a review of or appeal against sentence whilst the respondent has completed the community service order. There is therefore no question of double jeopardy or being sentenced twice.

Further, the applications for review of sentences in both cases were not instituted after the defendants had served their original sentences. In CAAR 3/2016, the application for leave to review the sentences was made to the Court of Appeal within 21 days after the imposition of the original sentence. In CAAR 4/2016, the Prosecution within 14 days of the sentence being imposed applied for a review of the sentences before the trial Magistrate in August 2016 under section 104 of the Magistrates Ordinance (Cap 227). The defendants of the two cases, at that time, had not started to serve their community service orders. Therefore, there is no question of the DoJ applying for review of the sentences

after the defendants had completed the original sentences.

Upon the dismissal of that review in September 2016, the DoJ applied to the Court of Appeal for leave to review the sentence and the Court of Appeal granted leave to the DoJ in October 2016. In other words, the applications for review were made within the time limit prescribed by the legislation. There is therefore no question of a vendetta as asserted at all. The review of the sentences in both cases could be heard until their respective appeals against convictions had been dismissed (CAAR 3/2016) and abandoned (CAAR 4/2016) (see DoJ's statement of August 17, 2017).

The DoJ reiterates that the two aforesaid cases were handled according to the applicable laws, and that there is no question of "political prosecutions" whatsoever.

Ends/Monday, August 21, 2017