

Statement by DoJ on legal issues relating to Taiwan homicide case

In response to some views that Hong Kong has jurisdiction over the Taiwan homicide case, the Department of Justice (DoJ) today (October 22) issued the following statement:

Hong Kong has a common law system. Anyone who has a clear understanding of our law would understand that Hong Kong adopts the territoriality principle in respect of criminal jurisdiction. In general, such jurisdiction applies only when the whole or part of the criminal act takes place within Hong Kong's boundary. In response to views that Hong Kong should have jurisdiction over the homicide case given that the victim and the suspect are both Hong Kong citizens and that the crime was planned in Hong Kong, the DoJ must reiterate that it has already carefully and comprehensively considered the Police's investigation and the available evidence. There has only been sufficient evidence in Hong Kong to institute criminal prosecution in Hong Kong courts against the suspect for money laundering but not for other offences.

In making prosecutorial decisions, the DoJ has always taken into account the available evidence and applicable laws, and acted independently in accordance with the Prosecution Code. A prosecution would only be commenced if there is sufficient admissible evidence to demonstrate a reasonable prospect of conviction. The DoJ would never institute prosecutions without sufficient evidential and legal bases. Furthermore, if the suspect is acquitted in Hong Kong, under the legal principle of double jeopardy, it may not be possible for subsequent prosecution of the same criminal act in another jurisdiction, with the result that the suspect may not be held legally responsible for his criminal act. Making arbitrary demands to prosecutorial institution to commence prosecutions without sufficient evidential and legal bases is neither responsible nor does it accord with the principle of administration of justice.

Anyone who committed an offence and completed serving his sentence would be released from prison. There is no legal basis for the Government to detain any discharged prisoner arbitrarily. The rule of law is a fundamental core value of Hong Kong such that government departments must carry out their duties according to the law and must not exercise their authority arbitrarily.

It is the responsibility of every civilised society to bring those who break the law to justice. Justice could be served by the suspect surrendering himself voluntarily in response to an arrest warrant and facing the legal consequence willingly. Refusing to let the suspect surrender is not only in defiance of justice but also an irresponsible act contrary to the rule of law.