

Transcript of media session by Secretary for Justice

Following is the transcript of remarks by the Secretary for Justice, Ms Teresa Cheng, SC, at a media session at the Legislative Council today (January 16):

Reporter: Secretary, would you make a comment that the DoJ should resort to outside legal advice to avoid the perception of bias to make sure that DoJ preserves the integrity?

Secretary for Justice: Thank you very much for that question. The independence of the Department of Justice in controlling and handling prosecution matters are actually guaranteed under Article 63 of the Basic Law. And we are not to be subject to any interference. That principle is also enshrined in the Prosecution Code where the role and duty of the prosecutorial officer is very well set out. Under there, it is very clearly stated that the person who is making the prosecutorial decision is not to be affected by what the position of the particular suspect, the circumstances that might arise as a result of the prosecutorial decisions, whether it be political or whether it be a matter of the media viewing the circumstances, or the general public. This is a very important principle to bear in mind because if that principle is not upheld and safeguarded, then we will be swaying one way or another by the influence of the general public or the media. And that we will not be able to follow the rule that is set out in the laws and how we are going to assess the evidence. And hence it is very important that we must comply with the legal principles on how we assess a particular case based on evidence to see whether or not the evidence are sufficient to form a reasonable prospect of conviction. May I add a little bit about this particular standard of test. It is not merely just on balance there is a reason to prosecute, because "on balance" is not good enough. It is not in the public interest to prosecute a person simply because on balance the evidence suggested that he may be liable. It has to be a test – again, this is well settled in case law and of course in the Prosecution Code – it has to be a reasonable prospect of conviction before we make that decision.

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